

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEITH JOHNSON, COLBY GOROG,
JOSHUA FLINT, LOUIS ROBINSON,
JAMES DUONG, FERNANDO URIZA,
MICHAEL TWOMEY, and JESSICA
CALKINS, individually and on behalf
of all others similarly situated,

Plaintiffs,

- versus -

ELON MUSK, SPACE EXPLORATION
TECHNOLOGIES CORP dba SPACEX,
TESLA, INC., THE BORING COMPANY,
DOGECOIN FOUNDATION, INC.,
BILLY MARKUS, JACKSON PALMER,
DOGECOIN DEVELOPERS class
representative ROSS NICHOLL and
DOGE ARMY class representative MATT
WALLACE, individually and on behalf of
all others similarly situated,

Defendants.

Case No.: 1:22-cv-05037-AKH

**FIRST AMENDED
CLASS ACTION COMPLAINT**

JURY DEMANDED

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A. INTRODUCTION

Defendant Elon Musk has been the leader, colloquially the “**Dogefather**,” of the *Dogecoin Pyramid Scheme* since *circa* April 2019. In fact, he is currently listed prominently on the official *Dogecoin* Twitter account header. Further, Musk’s reputed “right-hand man,” Jared Birchall, sits on the advisory board of the Dogecoin Foundation. This Foundation has been responsible for the development and maintenance of Dogecoin since it was founded in late 2013 as “**the next big thing**,” which its co-founders both admitted was their intent when they launched the Dogecoin **investment contract (“DCIC”)**. After the launch of DCIC, Musk, together with SpaceX, Tesla, Inc., the Boring Company, the Dogecoin Foundation, and the “Doge Army,” became *de facto* partners in a multi-billion-dollar racketeering enterprise which intentionally **manipulated the market** to drive the price of *Dogecoin* from \$0.002 to \$0.73 in two years, an increase of 36,000%. Subsequently, in May of 2022, Musk recklessly caused the price to drop 92% from \$.073 to \$0.05, an aggregate of nearly \$86 billion, when his actions spawned the crypto-crash of 2021/2022.

At an interview on June 21, 2022, Musk admitted to having manipulated the market when he stated that his support for Dogecoin stemmed from his desire to “help” his employees, reputed *Dogecoin* owners, to profit. Musk also falsely claimed in that interview that he “*never said that people should invest in crypto*,” when in reality he has been knowingly promoting crypto “currency,” particularly *Dogecoin*, since *at least* April of 2019, while repeatedly knowingly asserting misrepresentations and intentionally engaging in market manipulation. The sole purpose of this manipulation was to seduce the public into investing in his **de facto pyramid investment scheme**, Dogecoin cryptocurrency.

Defendant Musk touted the Dogecoin Pyramid Scheme aware that, unlike real estate or Broadway musicals for instance, all cryptocurrency lacks any intrinsic value. Its purported value

is derived *solely* from marketing gimmicks and schemes that benefit those at the top of the pyramid at the expense of those at the bottom. One of its founders, Defendant Billy Markus, recently acknowledged that the, “value of Dogecoin is quite literally **whatever someone else is willing to pay for** it at any point in time.”

In sum another Dogecoin co-founder, Defendant Jackson Palmer, described the Dogecoin scheme succinctly when he tweeted in 2021 that the, “*cryptocurrency industry leverages a network of shady business connections... to perpetuate a cult-like ‘get rich quick’ funnel designed to extract new money from the financially desperate...*” Regarding Dogecoin specifically, this “shady” scheme was in fact controlled by Mr. Musk, as confirmed in multiple independent scholarly publications *specifically* attributing Dogecoin price fluctuations to Musk:

How Elon Musk’s Twitter Activity Moves Cryptocurrency Markets, *Blockchain Research Lab* (Ante, 2022) (Exhibit “A”), Down with the #Doge father: Evidence of a Cryptocurrency Responding in Real Time to a Crypto-Tastemaker, *Journal of Theoretical and Applied Electronic Commerce*, (Cary, 2022) (Exhibit “B”), and The Credibility Cryptocurrency Valuation: Statistical Learning Analysis for Influencer Tweets, (Lee et al, 2021)(discusses the “Musk Effect”). (Exhibits “C”)

During the crypto-crash of 2021/2022, Dogecoin lost approximately \$86 billion of its market cap as a result of the foregoing Crypto Pyramid Scheme and **market manipulation**. Defendants profited tens of billions of dollars from Dogecoin at the expense of Plaintiffs and the class, who also paid vast sums in hidden Dogecoin trading fees. Having been injured, Plaintiffs therefore demand an accounting, monetary damages, punitive damages, and equitable relief, including regulatory oversight of the Dogecoin investment.

B. JURISDICTION

Plaintiffs invoke this Court’s jurisdiction under the Securities Act, Civil RICO and the Class Action Fairness act as the dispute involves monetary damages in excess of \$5,000,000. The Court has supplemental jurisdiction over claims made under New York State law.

C. VENUE

Venue is proper in the Southern District of New York because defendants are jointly engaged in wrongful conduct in this district and Defendants have minimum contacts with this district. Venue is also proper because Defendant Musk appeared on Saturday Night Live in this district where he committed some of the tortious acts described in this amended complaint. In addition, Plaintiff Colby Gorog and many class members reside in the State of New York.

D. PARTIES

PLAINTIFFS

Plaintiff Keith Johnson is an electrician and naturally born American citizen residing in New England who lost hundreds of dollars investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Colby Gorog is a United States special operations veteran and Ivy League student residing in New York who lost approximately \$30,000 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Joshua Flint is an aerospace technician residing in Florida who lost approximately \$30,000 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Louis Robinson is a cancer survivor and retiree residing in Arkansas who lost approximately \$17,000 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Jim Duong is a full-time father and California resident who lost approximately \$7,000 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Fernando Uriza is a Maryland resident who lost approximately \$3,200 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Michael Twomey is a United States National Guard member who lost approximately \$2,500 investing in Dogecoin as a result of Defendants' conduct.

Plaintiff Jessica Calkins is a California resident who lost approximately \$1,300 investing in Dogecoin as result of Defendants' conduct.

DEFENDANTS

Defendant Elon Musk is a resident of Texas and CEO of Defendants SpaceX, Tesla, Inc., and the Boring Company. He is also the de facto leader of the Dogecoin Crypto Pyramid Enterprise and is known by his 100 million Twitter followers as the "Doge father."

Defendant Space Exploration Technologies Corp, dba SpaceX, ("SpaceX") is a private corporation with its corporate headquarters at 1 Rocket Road, Hawthorne, California 90250.

Defendant Tesla, Inc. ("Tesla") is a public corporation with its corporate headquarters at 13101 Harold Green Road, Austin, Texas 78725.

Defendant The Boring Company ("TBC") is a company with its headquarters at 15709 Impact Way, Pflugerville, Texas 78660.

Defendant Dogecoin Foundation, Inc., incorporated on June 23, 2014, ("DCFI") is the entity that owns and operates Dogecoin, with its principal office at 323 South College Ave., #3, Fort Collins, CO, 80522, its mailing address PO Box 2166, Fort Collins, CO, 80522, and its registered agent for service of process as the Law Office of Joshua K Westmoreland, PO Box 36, Wellington, CO 80549.

Defendant Billy Markus a.k.a. "Shibetoshi Nakamoto" is a co-founder of Dogecoin who, along with co-founder Defendant Jackson Palmer, developed Dogecoin in 2013 as "the next big thing," having been inspired by Bitcoin's profitability in 2013, and offered to sell Dogecoin to the public as an unregistered security. To date, Billy Markus communicates nearly daily with Elon

Musk, and he was responsible for the launch of the deceptive “to the moon” advertising campaign which Musk later adopted and enlarged as part of his scheme to artificially inflate Dogecoin.

Defendant Dogecoin Developers ("DCD") is a semi-formal association of computer scientists and “blockchain” hobbyists as well as other professionals or enthusiasts, led by class representative Defendant Ross Nicholl, and is tasked with maintaining the complex technical infrastructure of Dogecoin, e.g. its “blockchain” and the “mining” network responsible for creating new Dogecoin. DCD is among a handful of associations/people followed by Defendant Musk on Twitter. Upon information and belief, DCD is funded by a “devfund” which contains Dogecoin cryptocurrency in the approximate amount of one million dollars. The fund has been active since the launch of Dogecoin in late 2013. In mid-2014, DPD implemented a de facto “Initial Coin Offering” ("ICO") or “Dogecoin Buyback.” These are similar to a stock buyback, and the goal was to raise capital for Dogecoin Stakeholders ("DCS").

Defendant Doge Army (aka Dogecoin Army) ("DCA") is an informal partnership of thousands of Dogecoin holders, “HODLers” (Hold On for Dear Life-ers) and promoters led by class representative Defendant Matt Wallace who have been artificially inflating the price of Dogecoin since at least 2019 in a bid to profit from their Dogecoin holdings at the expense of Plaintiffs and the class.

E. STATEMENT OF FACTS AND ALLEGATIONS

1. PYRAMID SCHEMES AND RICO

1. A pyramid scheme is an "investment" scheme based on recruiting an ever-increasing number of "investors."
2. The initial promoters recruit investors, who in turn recruit more investors, and so on.

3. The scheme is called a "pyramid" because at each level, the number of investors increases.
4. The small group of initial promoters at the top require a large base of later investors to support the scheme by providing profits to the earlier investors.
5. Pyramid schemes are illegal in New York State, as well as in many other states.
6. Article 23A of the General Business Law of the State of New York §359-fff sets forth the criminality of initiating and participating in pyramid schemes (also known as chain distributor schemes). <https://ag.ny.gov/consumer-frauds/pyramid-schemes>.
7. Pyramid schemes are "inherently fraudulent" and are per se mail fraud, a predicate act under the Racketeer Influenced Corrupt Organization Act (RICO), 18 U.S.C. §§ 1961–1968 See Torres v. S.G.E. Management, L.L.C., 838 F.3d 629 (5th Cir. 2016).
8. By design, “a pyramid scheme's fraud inheres in its concealment of the deceptive nature of the ‘robbing Peter to pay Paul’ payment structure.” Ibid.
9. The Federal Trade Commission has recognized that a pyramid scheme harms its participants "by virtue of the very nature of the plan as opposed to any dishonest machinations of its perpetrators.” Ibid.
10. Operation of a pyramid scheme, “constitutes fraud for purposes of ... various RICO predicate acts.” Ibid.
11. No clear line, “separates illegal pyramid schemes from legitimate multilevel marketing programs.” Ibid.
12. Indeed, “the very reason for [their] per se illegality ... is their inherent deceptiveness and the fact that the futility of the plan is not apparent to the consumer participant.” Ibid.
13. Since, “pyramid schemes are per se mail fraud, which include inherent concealment about the deceptive payment scheme, one who participates in a pyramid scheme can be harmed

‘by reason of’ the fraud regardless of whether he or she relied on a misrepresentation about the scheme.” Ibid.

14. “Participants are then harmed by the fraud involved in pyramid schemes not because of any misrepresentations, but because the ultimate collapse of the scheme, and thus harm to participants, is a direct and foreseeable consequence of such structure.” Ibid.

15. Those, “who lose money in a pyramid scheme necessarily do so ‘by reason of’ the fraud because the fraud is necessary to temporarily sustain the scheme, and ultimately causes the scheme’s collapse.” Ibid.

16. And, “those who profit from a fraudulent pyramid scheme make money only by virtue of the participation of downline investors, like the Plaintiffs, who lose money.” Ibid.

17. The Plaintiffs are, “necessary to the scheme and are the direct victims of the scheme.” Ibid.

18. Plaintiffs are, “the foreseeable victims of the alleged fraud: ‘Pyramid schemes are destined to collapse, and the most recent entrants to lose their money.’” Ibid.

19. Further, “(the) Federal Trade Commission’s persuasive precedent recognizes that pyramid schemes make ‘the inevitably deceptive representation (conveyed by their mere existence) that any individual can recoup his or her investment by means of inducing others to invest...’” Ibid.

20. Federal courts have also specifically recognized that investments in a pyramid scheme are “investment contracts” and thus securities within the meaning of the federal securities laws. See S.E.C. v. Glenn W. Turner Enters., Inc., 474 F.2d 476 (9th Cir.), *cert. denied*, 414 U.S. 821, 94 S.Ct. 117, 38 L.Ed.2d 53 (1973). See also Webster v. Omnitrition Int., Inc., 79 F.3d 776 (1996).

2. CRYPTOCURRENCY GENERALLY

i. Origins

21. Cryptocurrency was first created in 2008 with the release of the Bitcoin “White Paper” by an anonymous person or entity known as “Satoshi Nakamoto.”

22. A billionaire named Doctor Craig Wright holds, or claims to hold, copyright in the Bitcoin Whitepaper¹, and extensive federal litigation centered on over \$56 billion worth of Bitcoin *seems* to have confirmed that Dr. Wright is in fact “Satoshi Nakamoto,” the creator of Bitcoin. See, e.g., Kleiman v. Wright, 2018 U.S. Dist. LEXIS 216417, 2018 WL 6812914 (*S.D. Fla. December 27, 2018*).²

23. The Bitcoin White Paper resulted in the creation of the “blockchain” - a digital database or ledger of *virtual* digital “coins” (more aptly, *transactions*) distributed across internet “nodes” or computers and secured by cryptography. This “blockchain,” a digital ledger of transactions, is at the heart of the technological novelty that makes this new form of currency possible.³

24. This blockchain ledger essentially makes possible all transactions, as all transactions are first verified or “settled” through a complex algorithm called “consensus,” and then recorded *forever* on the blockchain ledger, i.e. the transactions can’t be deleted and they depict “ownership” of some otherwise non-existent “coin.”

¹ See <https://coingeek.com/wright-v-cobra-how-satoshi-took-back-the-bitcoin-white-paper-from-btc/> (July 1, 2021)(“Barely two months since the filing of Dr. Wright’s lawsuit against bitcoin.org operator Cobra, the English High Court has found in favor of Dr. Wright, recognizing his copyright in the white paper”). See also <https://coingeek.com/wright-v-cobra-how-satoshi-took-back-the-bitcoin-white-paper-from-btc/> (July 1, 2021)

² See also <https://www.zdnet.com/article/craig-wright-to-pay-100-million-in-kleiman-v-wright-56b-case/> (December 7, 2021)(“Craig Wright to pay 100 million in Kleiman v Wright \$56B case”) See also <https://www.cnn.com/2021/12/06/miami-jury-rules-in-favor-of-craig-wright-bitcoin-claimed-inventor.html> (December 6, 2021)

³ <https://www.investopedia.com/ask/answers/063015/what-does-block-chain-record-bitcoin-exchange-transaction.asp#>

25. These recorded ledger transactions (the blockchain) are then used to trace ownership of any particular *virtual* cryptocurrency “coin” (which “exists” only through or as a transaction), by making it possible to identify the public bitcoin address, or “wallet,” of the owner of a particular Bitcoin or Dogecoin, for instance.

26. Since no one except the physical owner knows who owns the Bitcoin address itself (loosely “wallet”), this system also provides pseudo-anonymity.

27. Further, this *virtual* cryptocurrency does not exist as a single unit such as a digital file. Instead, Bitcoin or Dogecoin transactions operate by permitting the owner of a particular virtual bitcoin unit to “send” cryptocurrency from his or her “wallet,” using *the owner’s* private key, to the receiver’s wallet using *the receiver’s* public key.

28. The transaction takes the form of an assertion, and only **implies** a unit of virtual currency which does not exist in reality.

29. For example, when the transaction, “Bob transferred one Dogecoin to Harry” is recorded on the blockchain, it is understood that Harry now owns a *virtual* Dogecoin which doesn’t exist in physical or *digital* reality, and which was “sent” to Harry’s wallet or public key, from Bob’s “wallet,” using his private key, in the form of an assertion of the transfer of virtual units of currency.

30. One prominent Bitcoin author described the virtual nature of the process as follows:

*Unlike traditional currencies, bitcoins are entirely virtual. **There are no physical coins or even digital coins per se.** The **coins are implied** in transactions that transfer value from sender to recipient. Users of bitcoin own keys that allow them to prove ownership of transactions in the bitcoin network, unlocking the value to spend it and transfer it to a new recipient. Those keys are often stored in a digital wallet on each user’s computer. Possession of the key that unlocks a transaction is the only prerequisite to spending bitcoins, putting the control entirely in the hands of each user.⁴*

⁴ See **Mastering Bitcoin**, 2nd Edition, by Andreas M. Antonopoulos, (2017)

31. As such, as discussed *infra*, these *virtual* – nonexistent - units of Dogecoin cannot be “sent” anywhere, much less “to the moon,” since Dogecoin is not a single, portable unit, but rather a series of transactions stored in distributed ledgers, from which one *infers* a virtual unit of currency by interpreting the contents of the transaction.

32. Further, a complete copy of the distributed ledger or blockchain containing *all* transactions ever made is stored in tens of thousands of computers called “nodes,” and the verification process for new transactions (“consensus”, or more generally “mining”) takes place in a distributed manner among and *between* thousands of these nodes, which after verification (loosely “settlement”) record these new, verified transactions in all copies of the blockchain stored in all nodes.

33. Antonopoulos, *supra*, explains this “consensus,” or the more general “mining” process, as follows:

*Bitcoin is a distributed, peer-to-peer system. As such there is no “central” server or point of control. Bitcoins are created through a process called “**mining**,” which involves competing to find solutions to a mathematical problem while processing bitcoin transactions. Any participant in the bitcoin network (i.e., anyone using a device running the full bitcoin protocol stack) may operate as a miner, using their **computer’s processing power to verify and record transactions**. Every 10 minutes on average, someone is able 1 to validate the transactions of the past 10 minutes and is rewarded with brand new bitcoins. Essentially, bitcoin mining decentralizes the currency-issuance and clearing functions of a central bank and replaces the need for any central bank with this global competition.*

Mining is the main process of the decentralized clearinghouse, by which transactions are validated and cleared. Mining secures the bitcoin system and enables the emergence of network-wide consensus without a central authority.⁵

34. Our courts have also defined cryptocurrency and the blockchain in various contexts.

35. *This* Court has itself defined the blockchain, and cryptocurrency generally, as follows:

A blockchain serves as the means of validating the authenticity of a transfer of a unit of cryptocurrency. It is a widely distributed but secure ledger or account of transactions. ... Individual blockchain transactions are grouped together and then recorded in “blocks” that are linked to prior blocks creating a “chain.” ... No centralized master copy of the

⁵ Ibid. Partial contents of the book are available at: <https://www.oreilly.com/library/view/mastering-bitcoin/9781491902639/ch08.html#>

blockchain exists; instead current versions of the blockchain are kept by individual users connected across a network Digital wallets ... akin to a bank account for digital assets, store "private keys," which grant control over individual tokens, and permit users to easily send and receive tokens via the blockchain.

See *SEC v. Telegram Grp. Inc.*, 448 F. Supp. 3d 352 (S.D.N.Y. 2022).

36. The seminal legal authority on cryptocurrency, which involved a \$56 billion claim against the purported creator of Bitcoin, in turn defines Bitcoin and the blockchain, as follows:

On October 31, 2008, a white paper authored under the pseudonymous name Satoshi Nakamoto (the "Satoshi White Paper") titled Bitcoin: A Peer-to-Peer Electronic Cash System was posted to a mailing list of cryptography enthusiasts ... This paper detailed novel methods of using a peer-to-peer network to generate what it described as "a system for electronic transactions without relying on trust." ... Bitcoin is a decentralized digital currency that uses a ledger to track the ownership and transfer of every bitcoin in existence ... This ledger is called the "Bitcoin Blockchain." ... In order to complete a transaction with bitcoins, you must have a bitcoin wallet ... "Wallets" are computer files dedicated to storing bitcoin information ... Each bitcoin wallet has a "public key" that is used as the "address" to receive bitcoin from others ... Each wallet is also assigned a "private key." ... To send bitcoin out of a wallet, an individual must have the private key associated with that bitcoin wallet.

There are two methods of acquiring bitcoins. The first is simply receiving bitcoins from someone ... The second way one can acquire a bitcoin is by "mining" them ... Bitcoin is designed without a centralized authority to curate the blockchain ... Therefore, "mining" is a process through which anyone with internet access can update the ledger and "mine bitcoins" by employing computer power to solve a complex computer problem ... The first "miner" who solves the problem gets the right to update the ledger by adding a block of recent transactions to the blockchain ... The protocol pays the successful miner in newly minted bitcoins, the number of which is determined by a pre-existing algorithm. Id

See *Kleiman v. Wright*, 2018 U.S. Dist. LEXIS 216417, 2018 WL 6812914 (S.D. Fla. December 27, 2018).

37. These definitions presuppose a virtual currency intended to be used exclusively for the purchase and sale of goods or services, which is not how this nascent technology has evolved.

38. Bitcoin was thus not originally intended to serve as an **investment** medium, as it was launched as a *bona fide* payment system with the goal of “disrupting” or revolutionizing traditional fiat currency models, by *inter alia* introducing “decentralization,” e.g. unregulated fiat.⁶

39. Nonetheless unscrupulous elements, driven by the decentralized and unregulated nature of this nascent technology, quickly exploited it thus transforming cryptocurrency overnight from its intended use as modern digital fiat for payments outside the traditional system, to a get-rich-quick investment scheme.

40. Accordingly, since bitcoin was launched in 2008 over *seventeen thousand* different crypto “coins” or “**altcoins**” have been created and routinely, if not primarily, marketed as investments on social media (e.g. Twitter, Reddit) and, more importantly, on hundreds of international and local “crypto” exchanges – online portals which allow investors to sell or purchase *virtual* crypto “coins” much as an investor purchases/sells NYSE securities.

41. Dogecoin has become one of the more prominent “altcoins” - as a result of defendant Elon Musk’s illicit activities, which include touting the investment as “fun” to lure potential investors into a volatile financial abyss.

42. However, on May 31, 2021, Dogecoin’s *own* co-founder Billy Markus, who frequently communicates with Elon Musk via Twitter, see (**Exhibit “D”**), all but admitted that Dogecoin was a scam, as it was “99.99% -based on the greater fool theory.”

43. Moreover Dogecoin, and most if not all of the other “altcoins,” can be characterized as *pyramid schemes*, as they are all dependent upon new investors to artificially inflate the market cap and price of the virtual coin without a substantive basis thus, “robbing Peter to pay Paul.”

⁶ See, e.g., Analysis of Energy Consumption and Carbon Footprints of Cryptocurrencies and Possible Solutions (Kohli et al, 2022) (“*Blockchain is a **disruptive technology** of distributed ledgers which was created by Satoshi Nakamoto in 2008.*”), available at <https://arxiv.org/abs/2203.03717>.

44. Restated – there is no other source of revenue for any given crypto enterprise – except purchases of its virtual “coins” by others, unlike traditional investments which create *profitable* services or products, such as for instance an AI-powered application with utility.

45. Notwithstanding, cryptocurrency is routinely marketed as a profitable investment *only*, and not for its utility as virtual, digital currency.

46. Ergo, there are relatively few, if any, advertisements directed at businesses encouraging them to adopt digital currency to improve their sales, most if not all advertisements instead tout the virtual coin’s profitability in an effort to recruit new investors – thus enriching the coffers of the bigger stakeholders.

47. Thus, crypto advertisements directed at businesses are relatively rare, particularly when compared to the viral, omnipresent, and ubiquitous nature of the infinitely abundant advertisements or “memes” of cryptocurrency as the perfect and safest investment asset, e.g., the Dogecoin “to the moon” advertising campaign from 2013 to present, *infra*. **(Exhibits “E” “F” “G”).** (*To the Moon Ad Campaign*), started by its founders in 2013 and then adopted and expanded by Elon Musk to artificially inflate Dogecoin thereby resulting in the 2021 Dogecoin bubble.

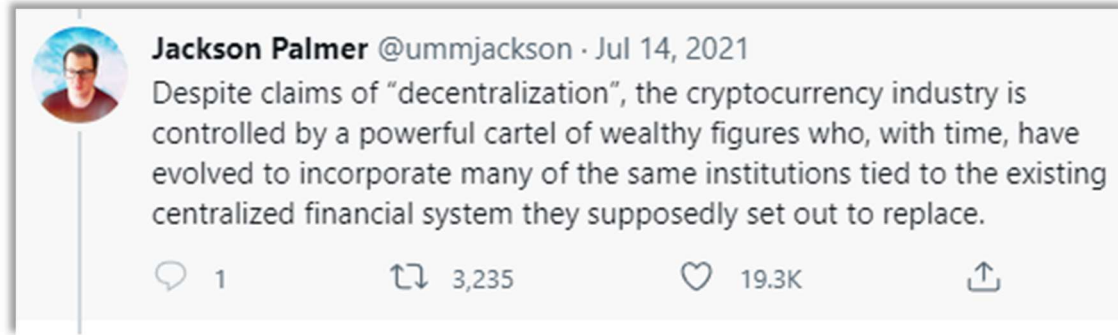
48. In fact, the first and only known widespread use of cryptocurrency as actual currency for “goods” occurred between 2011 to 2013 on the “dark web” by way of a company called “Silk Road,” which processed billions of dollars of illicit, mostly drug-related, transactions through Bitcoin and was known as the “Amazon” of the illicit drug business.

49. Silk Road was eventually shut down, however, and its founder is now serving decades of prison time.

ii. Misleading Decentralization Claims

50. Crypto “currency” is rarely if at all used in commerce for the purchase or sale of goods or services, and references by its proponents regarding its use as decentralized “currency” are typically made in a misleading manner solely to induce others to invest in this disruptive future currency which, *if the hyperbole is believed*, will replace fiat currency and make *everyone* wealthy in the process.

51. In fact, one of the co-founders of Dogecoin itself recently tweeted that crypto’s purported decentralization has been replaced by *privatized*, less trustworthy, *de facto* centralization:



52. The tweet received 19,300 “likes” or expressions of approval, as well as 3,235 “retweets,” further depicting agreement of this assertion by others.

53. This “powerful cartel” purporting to control this nascent digital technology often works alongside less scrupulous elements, and are often of questionable moral character themselves, *infra*.

54. Further underscoring this new form of *de facto* centralization, every cryptocurrency transaction in fact requires third-party “miners,” to verify the transaction on the blockchain, and these miners are rewarded with new coins created for their efforts, which are valued as per the current market rate.

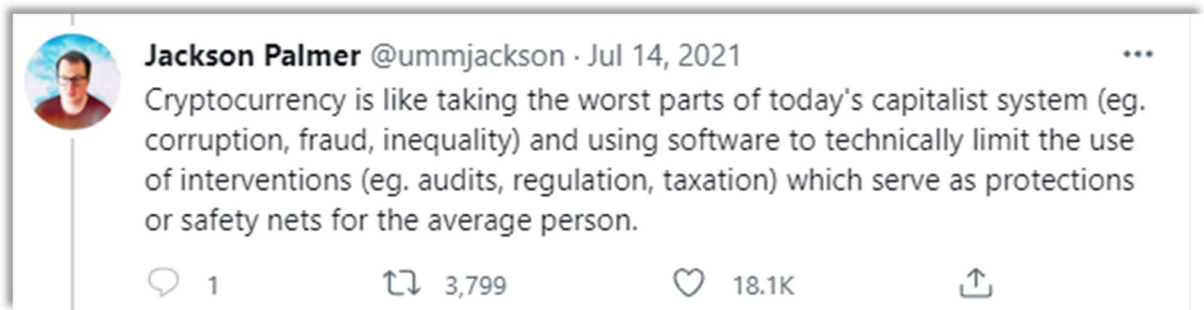
55. These “miners” in fact compete for and can achieve *de facto* control of the cryptocurrency, particularly if they acquire more than 50% of the “mining power” of any given cryptocurrency, e.g. Bitcoin.⁷

56. Further, as cryptocurrencies are traded through crypto-exchanges, which typically charge a fee, these exchanges also compete for control, or de facto centralization, of a given “coin.”

57. Dogecoin developers and promoters have misrepresented this status quo, as the www.Dogecoin.Com website for instance states “there’s no middleman to take a cut” of Dogecoin transactions, while the reality differs substantially.

iii. Cryptocurrency’s Lack of Regulatory Oversight Breeds Corruption

58. In a recent Tweet, Dogecoin co-founder Palmer set forth that cryptocurrency is essentially an unregulated Wild West, to wit:



59. This tweet received 18,100 “likes” or expressions of approval, as well as 3,799 “retweets,” further depicting approval of this assertion by third parties.

60. The Silk Road fallout, *supra*, a now-defunct billion-dollar empire dedicated to the sale of illicit drugs using Bitcoin, further illustrates that crypto’s intended use as currency, *in addition to its exploitation as an investment*, merits further regulatory scrutiny.

⁷ <https://www.investopedia.com/terms/1/51-attack.asp>

61. Without regulation, the crypto world operates with no rules or accountability and exhibits high volatility, as depicted by the fluctuating market cap of all cryptocurrencies which rose to **nearly \$3 trillion in 2021 before dropping under \$1 trillion during the crypto-crash of 2021/2022.**

3. DOGECOIN

The “Fun Meme Coin” Developed and Marketed as an Investment Contract, Misleadingly Called a “Joke”

i. Dogecoin’s “Initial Coin Offering”: the “Dogeparty” Novelty or Scam

62. The crypto community, as an unregulated entity, performs in novel ways which nonetheless merit regulatory oversight under the existing regulatory infrastructure.

63. In *Barron v. HELBIZ*, 2021 U.S. Dist. LEXIS 12352, 2021 WL 229609 (SDNY 2021), this Court thus stated that the cryptocurrency at issue was an **investment contract** since, “*defendants treated the token as an investment from its inception,*” and then cited its ICO (Initial Coin Offering) and listings in “crypto” exchanges as *non-exhaustive* factors in that determination.

64. In the case at bar, it is clear that Defendants launched Dogecoin as an investment, as *both co-founders* publicly admitted that they launched it with the expectation that it would be “**the next big thing**” after having been inspired by Bitcoin’s meteoric rise in late 2013.

65. The founders also launched a comprehensive “**to the moon**” advertising campaign, which Defendant Musk later adopted and enhanced with his Company SpaceX, and which slogan (“**to the moon**”) loosely translates to “**this investment will yield astronomical profits.**” (Exhibits “E” “F” “G”). (*To the Moon Ad Campaign Tweets Et al*).

66. Moreover, Dogecoin has been listed in exchanges since inception, *infra*, and from its very beginnings has also had a “**devfund**,” a development fund, which currently contains Dogecoin

worth approximately **one million dollars** at today's Dogecoin prices.

67. **This development fund, and Dogecoin “securities” generally, were in turn subject to a financial novelty which served a similar function as an ICO, and which some have characterized as a fraud.**

68. Specifically, this novelty is called a “Dogeparty,” which aims to mimic Bitcoin’s “counterparty,” wherein investors are encouraged to “burn” their Bitcoin, or Dogecoin in the case of Dogeparty, by sending the virtual coins to a “dead” public address, e.g. a wallet for which no one has the private key, thus effectively literally throwing away, or “burning” the virtual currency.

69. In return, during this “burning” process which typically lasts a few weeks, those who burn their cryptocurrency are issued a new token, called XDP in the case of Dogeparty (Dogecoin) and XCP in the case of Counterparty (Bitcoin), which can be exchanged for value.

70. This new token exists in the same blockchain as the “burnt” cryptocurrency but is valued, and promoted, differently and is otherwise separate from the “burnt” virtual coins, e.g. similar to issuing Euros, or rather Venezuelan “pesos,” to someone who burns an American dollar.

71. This process has the (intended) effect of **raising the price** of the “burnt” cryptocurrency, to wit, *“coin **burning** reduces the total supply in circulation since the coin is intentionally destroyed. It is an **effective method of increasing and stabilizing the valuation of coins and tokens.**”*⁸

72. **As such, the “burning” process is effectively a Coin Offering, of a new token, which also works to raise the price of the “burnt” cryptocurrency generally, and therefore has the same effect (raising capital) as an ICO, albeit the influx of new capital is less prominent (e.g. concealed).**

⁸ <https://masterthecrypto.com/coin-burning-what-is-coin-burn/> attached as (Exhibit “H”).

73. This unregulated process of “**burning**” is unique to cryptocurrency.⁹

74. Further, many bona fide Initial Coin Offerings, or ICO’s, “have integrated a **coin burning** mechanism for unsold tokens at the end of their token sale.”¹⁰

75. This “burning” process has also been compared to a **stock buyback**.¹¹

76. Further, the “*use of a cryptocurrency coin **burn** to **deceive investors** is possible ... [since] developers can claim that they're burning tokens when [in reality] ... [investors are] sending them to a wallet [the developers] own.*”¹²

77. In the context of Bitcoin, this burning process is called “**Counterparty**” and results in the issuance of a new token (which has value and is traded in exchanges), called “XCP.”¹³

78. As stated *supra*, this “burning” process which typically lasts one month may benefit the coin offering founders or promoters, e.g. in the case of Bitcoin’s first “counterparty” event:

*The supply of XCP was created in a process called ‘proof-of-burn’ that lasted from January 2nd to February 3rd 2014 (5000 Bitcoin blocks). During this period, anyone was able to exchange bitcoins for XCP automatically ... Since the BTC on the burn address will never be spendable again, they are considered destroyed or ‘burned’. **The main advantage of using this process is to create an equal opportunity for all users, including the founders of the project.** The result is that nobody started out with a pre-existing supply of XCP. This method is relatively rare in the crypto space, because it does not provide the founders with starting capital.*

79. When Dogecoin was being developed in 2014, the developers of the Dogeparty platform, backed **or supported by Dogecoin Developers**, staged a similar 30-day “Proof of Burn” Dogeparty event which has similarities to an **initial coin offering** as new tokens called “XDP” are issued to those who “burn” or “invest” Dogecoin by sending them to a purportedly “dead” address, indirectly raising capital as explained *supra*:

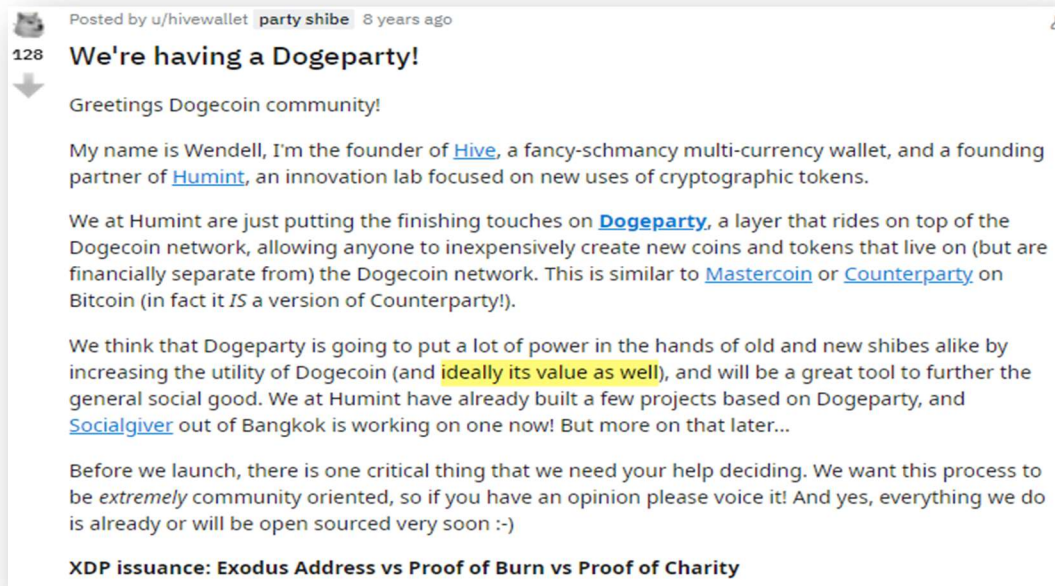
⁹ Ibid.

¹⁰ Ibid.

¹¹ <https://cointelegraph.com/explained/buyback-and-burn-what-does-it-mean-in-crypto>

¹² Ibid.

¹³ <https://counterparty.io/docs/faq-xcp/>



Source:https://www.reddit.com/r/dogecoin/comments/2beil/were_having_a_dogeparty/ (Exhibit “I”) (2014 Reddit Post)

80. In another Reddit post from early 2014, a Dogeparty developer sent out an invite for a physical Dogeparty gathering in New York City, promoting the event with the popular, “to the moon” mantra created and used by Dogecoin developers *ad nauseam* since 2013, and later adopted by Musk and SpaceX to artificially inflate the price of Dogecoin:



Source:https://www.reddit.com/r/dogecoin/comments/1wi415/helpful_shibes_needed_to_take_the_first_ever/ (Exhibit “J”)

81. This “to the moon” mantra and advertising campaign, (**Exhibits “E” “F” “G”**), as set forth throughout this amended complaint, effectively guarantees “stratospheric” profitability, which was the likely purpose of this *de facto* initial coin offering (the Dogeparty) in 2014.

82. In a subsequent Reddit post from 2014, a Dogeparty developer explained that these new XDP tokens issued during this *de facto* “30-day” coin offering in 2014 would be traded on the exchanges, and that the Dogeparty *platform* generally allows users to create new digital “assets”:

So Dogeparty (XDP) will be a new currency on it's own but also a platform to create unlimited new coins, charities, companies, services, etc... all built on the Dogecoin backbone (it's blockchain) ... The PoB is a onetime (30 day) event to create XDP. The amount created is the total amount XDP ever created. They will be tradable on exchanges and value will grow with time. They are also currency to fuel Dogeparty projects. New projects (assets) cost XDP to be created and maintained. So if you have a mining company you can create a Dogeparty asset "Miner" and issue tokens (shares) for others to buy. Then you can pay dividends, you'll have a list of shareholders, you can issue correspondence or financials to those holders, shareholders can trade their "Miner" currency freely on the built-in exchange, etc...¹⁴

83. Another Dogeparty developer in 2014 published a “Dogeparty for Dummies” post, concluding that Dogeparty’s XDP token is “just another coin” and that it, “*is minted (created) by turning Dogecoin into it (instead of mining).*”¹⁵

84. This Dogeparty developer further explained that XDP token owners could transform XDP into any other custom-made digital “asset,” purportedly with the potential to have value.

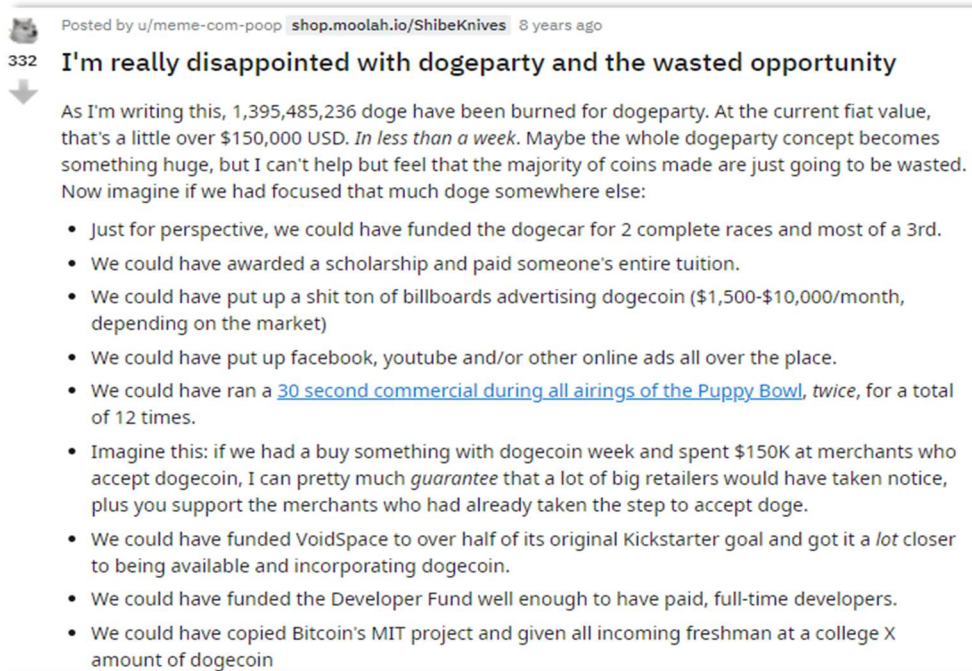
85. XDP tokens were thus issued in an offering in 2014, “*using the proof of burn consensus mechanism ... which effectively ‘burned’ over 1.85 billion DOGE by moving them to an inaccessible wallet. Those who engaged in this **initial coin burning process** were rewarded with an amount of XDP proportional to the quantity of Dogecoin burned.*”¹⁶

¹⁴ https://www.reddit.com/r/dogecoin/comments/2dblbt/dogeparty_xdp_proof_of_burn_in_less_than_24_hours/

¹⁵ https://www.reddit.com/r/dogecoin/comments/2dz19s/im_really_disappointed_with_dogeparty_and_the/. (**Exhibit “K”**)

¹⁶ See https://www.reddit.com/r/dogecoin/comments/2dhav7/dogeparty_for_dummies/. (**Exhibit “L”**)

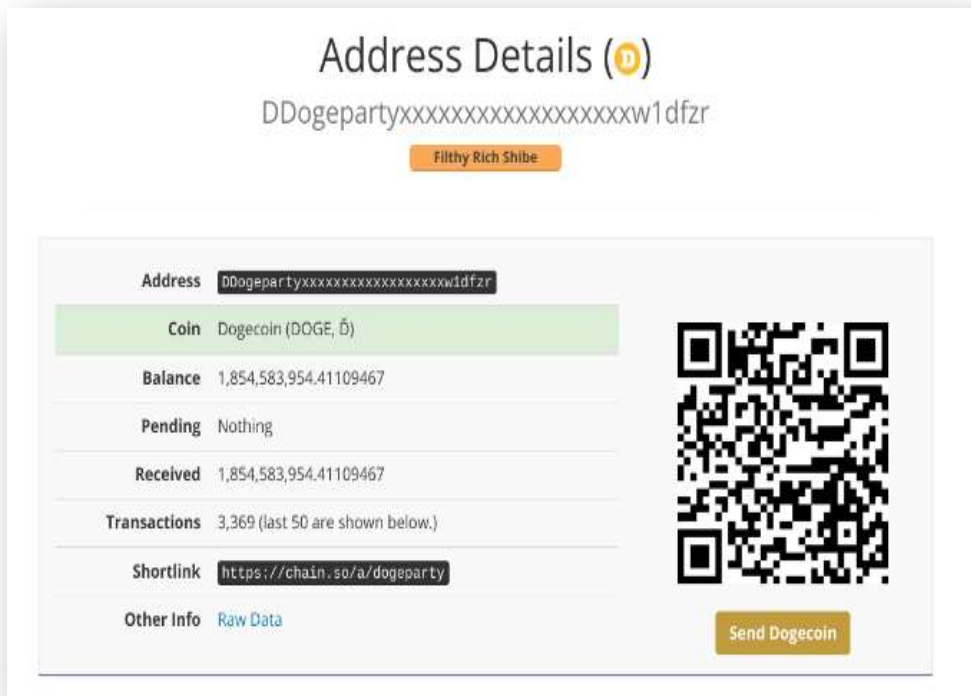
86. The 2014 Dogeparty offering thus resulted in the “burning” of the equivalent of **\$150,000.00 US Dollars (worth \$97 Million U.S. Dollars** at the today's Dogecoin prices), as per the following Reddit post¹⁷, attached in its entirety as **Exhibit “K,”** where one Dogecoin investor, “*Shibeknives*” expressed disdain that so much money had been “burned”:



87. As of August 7, 2022, this inaccessible Dogeparty “dead” address (or wallet) contains the equivalent of **\$130 million** dollars of Dogecoin, and was likely worth nearly **one billion dollars** at the height of the Dogecoin bubble in May of 2021¹⁸:

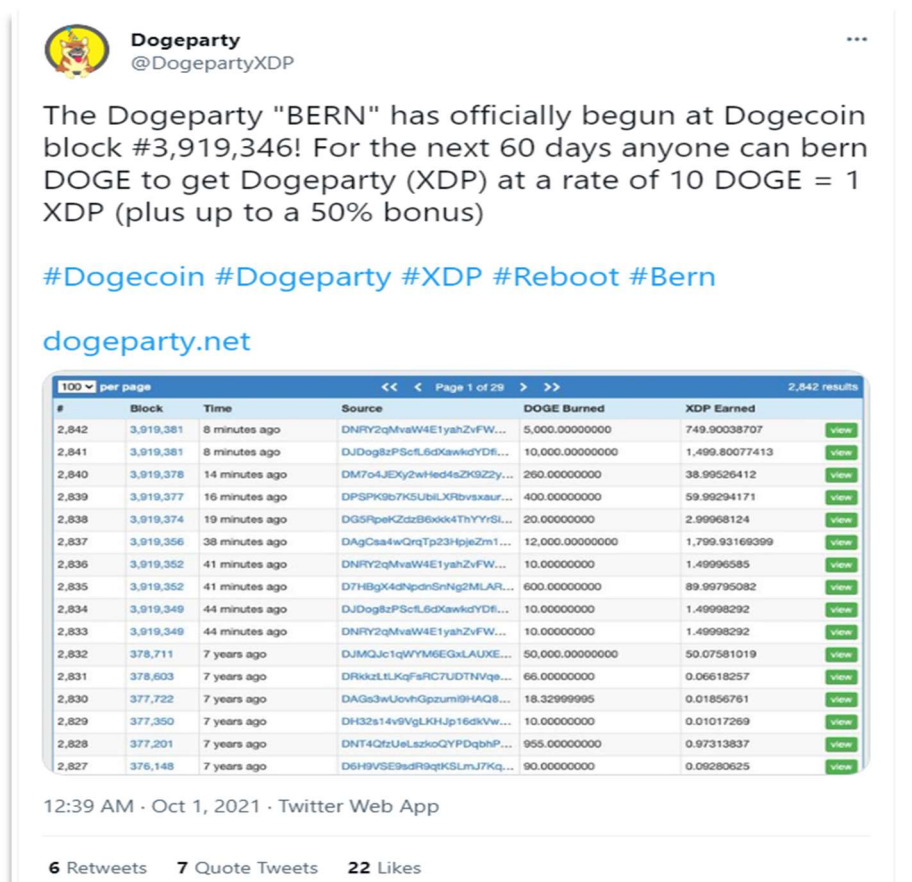
¹⁷ <https://dogermint.com/dogeparty/>

¹⁸ The “dead” wallet can be accessed at: <https://chain.so/address/DOGE/DDogepartyxxxxxxxxxxxxxxxxxxw1dfzr>



88. Further, as this “dead wallet” contains nearly two billion (inaccessible) Dogecoin, the supply of Dogecoin was decreased by that amount, resulting in an increase in the price and market cap of Dogecoin, i.e. the *unregulated* influx of new capital.

89. The Dogeparty offering of 2014 was meant to be a one-time process but was then repeated starting on October 1, 2021, during Musk’s rein as the “Dogefather,” in a 60-day “Second Coin Offering” to issue new “XDP” tokens in return for Dogecoin:



90. However, instead of “burning” Dogecoin by sending it to a “dead” wallet, this time the Dogecoin was “berned” or sent to a, “*developer’s controlled wallet ... for future platform development and server payments to keep the Dogeparty protocol in operation.*”¹⁹

91. In return those who “berned” their Dogecoin during this second coin offering were issued new XDP tokens, which are currently traded in crypto exchanges for profit.²⁰

92. This developer-controlled wallet, or the “Community Fund” created during the *second* XDP “Coin Offering” in October of 2021, allocates funds for, *inter alia*, promotional efforts to list XDP tokens in exchanges (hence to boost profitability), to wit:

¹⁹ <https://dogermint.com/dogeparty/>

²⁰ *Ibid.*

What is the Community Fund?

The community fund is an address which holds all of the DOGE funds that were burned during the burn period and will be controlled by the Dogeparty Foundation. The community fund will be used to benefit the Dogeparty community and support continued development of the platform for many years into the future.

Suggested use of the Community Fund

- 35% – Developer Fund (pay developers to maintain platform and add new features)
- 25% – Marketing & Promotion (pay for trade shows, hackathons, advertising, etc.)
- 20% – Exchange Listings (pay for exchange listings on popular exchanges)
- 10% – Founder Compensation (reimburse founders who built the Dogeparty platform)
- 10% – Legal Fund (pay any legal expenses which may arise in the future)

Source: <https://dogeparty.net>

93. Using “**proof of burn**” – or the concept of sending virtual coins to a “dead” wallet - for Dogeparty’s 2014 coin offering to raise new capital was in fact only one of three contemplated options, as there were two other ways to issue XDP tokens, as set forth by purported Dogeparty developer “Wendell” a.k.a. “*hivewallet*” in a Reddit post of 2014:

*My name is Wendell, ... We at Humint are just putting the finishing touches on Dogeparty, a layer that rides on top of the Dogecoin network, allowing anyone to inexpensively create **new coins and tokens** that live on (but are financially separate from) the Dogecoin network. ... We think that Dogeparty is going to put a lot of power in the hands of old and new shibes alike by increasing the utility of Dogecoin (and **ideally its value as well**), and will be a great tool to further the general social good.*

XDP issuance: Exodus Address vs Proof of Burn vs Proof of Charity

In order to utilize the power of Dogeparty, it's necessary to have XDP, the Dogeparty coin. The pressing issue is how to issue the coin to the public in a fair manner. There are at least three ways to launch a meta-layer on top of a blockchain:

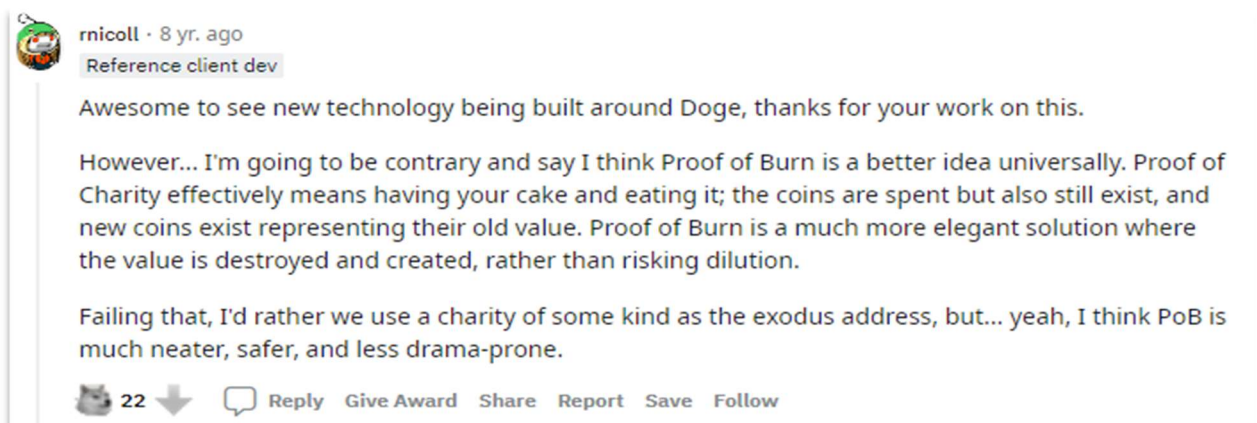
Exodus Address: *Mastercoin was the first to do it, and their method involved sending Bitcoin to an "exodus" address. Based on the keys used to sign those transactions, users are able to claim a new token (Mastercoin). This method is straightforward, but sometimes*

criticized for directly rewarding the creators. This is our least favorite among the three options mentioned here.

***Proof of Burn** involves sending coins to a provably un-spendable address -- a kind of **black hole** for crypto-currency. While it may sound crazy to destroy wealth in this way, the method does not involve any creator being enriched, and is generally free of drama. Proof of Burn was first attempted by Counterparty and it seems to have kept them ethically favorable in the community. This is our second favorite option.*

***Proof of Charity** is our favorite, but it's also the most challenging. The thing is, we feel that the Dogecoin community is something quite special, and that there may be sentiment in the community to do good with the DOGE that would otherwise be burnt or given to a "creator". However, a special issuance method requires special considerations, not the least of which is **trust**: An individual must hold the DOGE, keep it safe, and be responsible for getting it to the charitable organization(s) chosen by the community. To increase trust in such a model, it is possible to create a multi-signature address that requires multiple parties to sign before it is spent, but we need the DOGE community to choose the 3 parties with a consensus!²¹*

94. Even more incriminating for Defendants, prominent and chief Dogecoin “Core” Developer, Defendant class representative Ross Nicoll, a member of the Dogecoin Developers Group (followed by Elon Musk on Twitter) who is also listed on the Dogecoin Foundation’s Website as an “Advisor,” promptly commented on the above Reddit post by a Dogeparty developer “Wendell,” in which comment he (Nicoll) *specifically* expressed support for the “proof of burn” concept:²²



²¹ https://www.reddit.com/r/dogecoin/comments/2beiil/were_having_a_dogeparty/. (Exhibit “I”)

²² *Ibid*, comments/responses to “We’re having a Dogeparty” 2014 post

95. In another Dogeparty Reddit post from 2014, Defendant Ross Nicholl also commented extensively on Dogeparty's 2014 coin offering, stating *inter alia* that, "*I've said this elsewhere, but I didn't expect nearly that many Doge to be burnt. Estimates were closer to 20-25mil total.*"²³

96. This comment by Defendant and class representative Nicholl underscored his, and the Dogecoin Developer's, direct involvement in the 2014 coin offering, and their support for "burning", or reducing the supply of Dogecoin (to raise its price).

97. In fact, Defendant Nicholl - who frequently also posts on the Dogecoin Developer's *Twitter* account which Musk follows - had also commented on the concept of Dogeparty "burning" in a Twitter post in 2014:



98. Eventually, the "proof of burn" concept suggested – or mandated – by lead Dogecoin developer Defendant Nicholl was chosen by Dogeparty developers to implement the 30-day 2014 Dogeparty (or XDP coin offering), likely to raise capital in the form of a Dogecoin market cap spike (which would *inter alia* benefit Dogecoin Developer's Group **devfund**).

99. **This initial and limited coin offering in 2014 also likely motivated more people to purchase Dogecoin to "burn," if only to be a part of this "fun" meme-coin, thus further increasing Dogecoin demand and hence its price, and resulting in new capital in the form of**

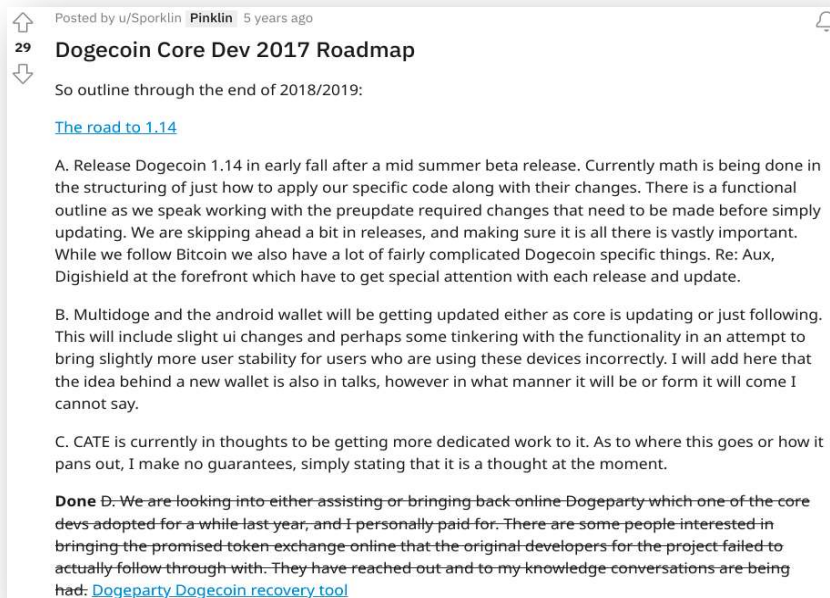
²³ https://www.reddit.com/r/dogecoin/comments/2dz19s/im_really_disappointed_with_dogeparty_and_the/. (Exhibit "K").

an increase in the Dogecoin Developer's "devfund."

100. In fact, in a Reddit post from 2017, The Dogecoin Developers – who are followed by Elon Musk on Twitter (one of the handful of accounts he follows, considered a privilege) - seemingly acknowledged being a part of the *Dogeparty* developers' team, to wit: ²⁴

*We are looking into either assisting or bringing back online **Dogeparty** which one of the core devs adopted for a while last year, and **I personally paid for**. There are some people interested in bringing the promised token exchange online that the original developers for the project failed to actually follow through with. They have reached out and to my knowledge-conversations are being had.*

101. The comment above, however, was crossed out in the original Reddit post²⁵:

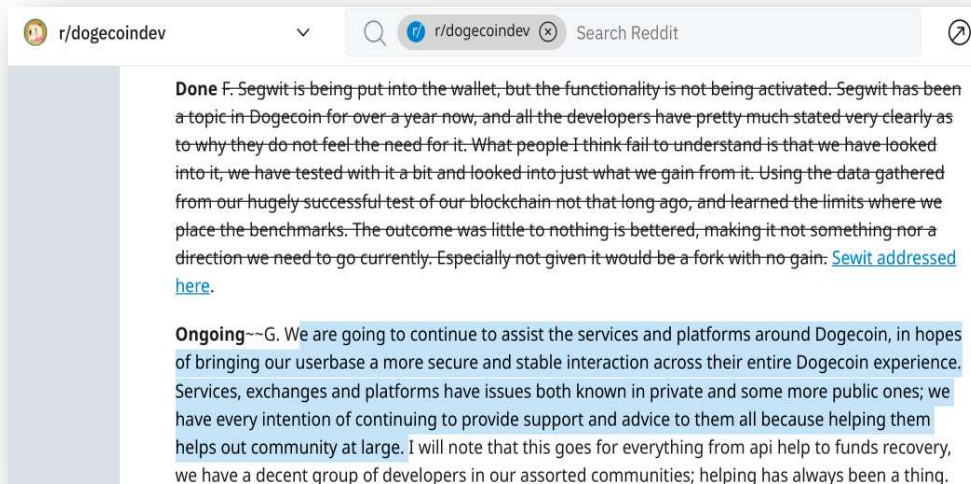


102. Notwithstanding, in that same post *Dogeparty* developers also acknowledged that they sought to "assist" *all* Dogecoin-related services and platforms, including exchanges, because it "helps out the [Dogecoin] community at large," to wit²⁶:

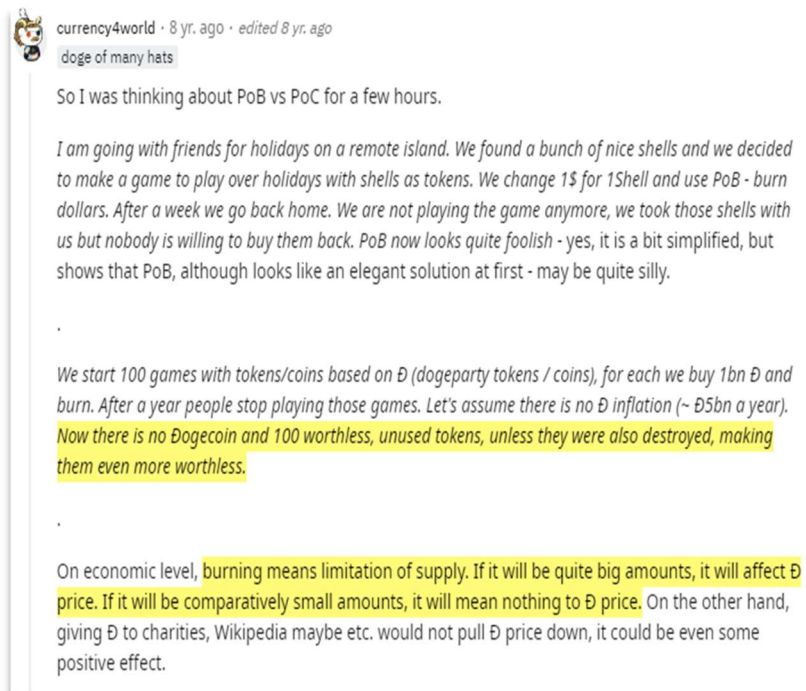
²⁴ https://www.reddit.com/r/dogecoindev/comments/6fib8i/dogecoin_core_dev_2017_roadmap/. (Exhibit "M").

²⁵ *Ibid.*

²⁶ *Ibid.*

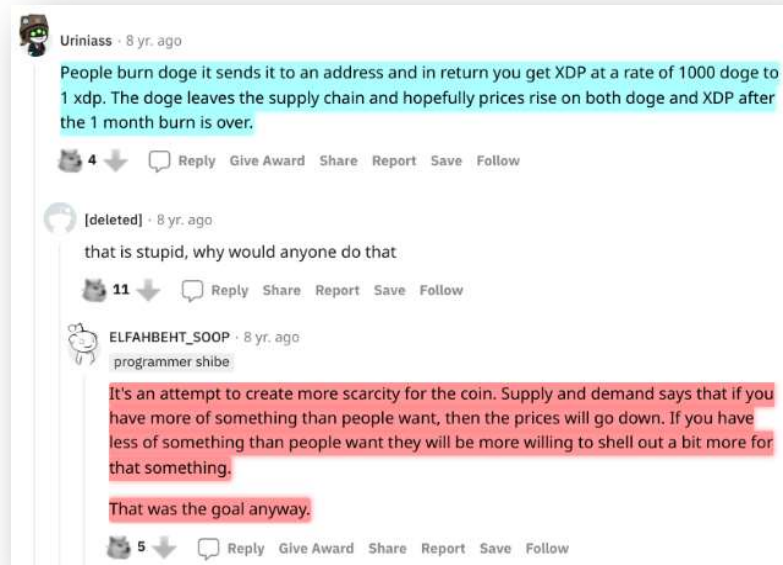


103. However, one Reddit user/Dogecoin investor (pseudonym “*currency4world*”) in 2014 noted that “burning” coins as Dogeparty did in its 2014 offering is **essentially a scam meant to raise the price of Dogecoin, and nothing more**:



104. In another post from 2014, a Dogeparty developer seems to have similarly acknowledged that the Dogeparty coin offering of 2014 was meant to reduce the supply of Dogecoin, for the

specific purpose of increasing its price, e.g. *“that was the goal anyway”*²⁷:



105. The 2014 Dogeparty event thus operated as an ICO, but with the **novelty of “throwing away” or “burning” money in exchange for a new token (XDP), thereby decreasing Dogecoin supply and increasing its price, resulting in profit or capital raised through Dogecoin’s Development fund, or *devfund*,** which contained a substantial amount of Dogecoin.

106. As it also encouraged the purchase of Dogecoin for the Dogeparty offering, it also resulted in increased Dogecoin demand, followed by an increase in its price, and hence new capital for Dogecoin Developers and other stakeholders.

107. The new tokens issued to those who “burned” their Dogecoin, called XDP, are also currently listed and traded in exchanges for profit, although it is one of the less-sought altcoins in the cryptocurrency community.

108. The 2014 Dogeparty offering was therefore a de facto initial coin offering, with similarities

²⁷ https://www.reddit.com/r/dogecoin/comments/2dz19s/im_really_disappointed_with_dogeparty_and_the/ (Exhibit “K”).

to a stock buyback, meant to raise additional capital.

109. This 2014 offering **was further sponsored, supported, and/or encouraged by the Dogecoin Developers.**

110. The 2021 Dogeparty or drive seven years later, wherein Dogecoin was not “burned” but rather paid *directly* to the developers of Dogeparty who were then issued XDP tokens, similarly raised funds similar to an ICO, and continues to benefit both the Dogecoin as well as the Dogeparty/XDP community, since XDP is traded on exchanges and Dogeparty now has a “community fund” of its own which it uses to develop the Dogecoin ecosystem for the *economic* benefit of all Dogecoin stakeholders.

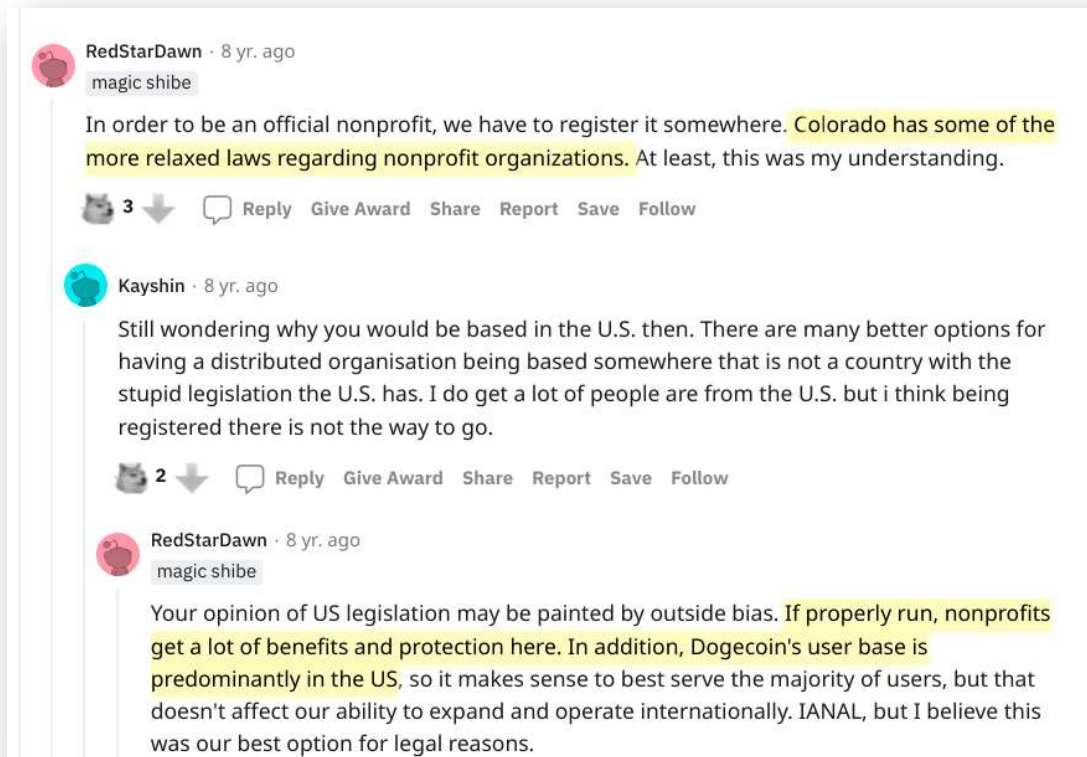
ii. Developed & Marketed as an Investment Contract

111. On December 6, 2013, Dogecoin cryptocurrency was launched by co-founders Defendant Billy Markus and Jackson Palmer at a price of approximately \$0.0005 per coin (5/100th of a penny).

112. The Dogecoin Foundation, Inc., was then formed in Colorado in 2014, “*to provide governance and support for the Dogecoin project.*”

113. As per a Reddit post during formation in 2014, the Foundation was incorporated in Colorado since, “*Colorado has some of the more relaxed laws regarding nonprofit organizations ... and nonprofits get a lot of benefits and protection [in the USA]. In addition, Dogecoin's user base is predominantly in the US*”.²⁸

²⁸ https://www.reddit.com/r/dogecoin/comments/29101x/community_discussion_the_dogecoin_foundation/



114. Dogecoin was thus incorporated as a non-profit on June 23, 2014, with principal office at 323 South College Ave., #3, Fort Collins, CO 80522, mailing address of PO Box 2166, Fort Collins, CO 80522, and a registered agent for service of process as the Law Office of Joshua K Westmoreland, PO Box 36, Wellington, CO 80549.

115. Its non-profit status was likely engineered in order to avoid regulatory scrutiny, as both co-founders readily admitted that they were inspired by Bitcoin's stratospheric rise in late 2013, and as a result sought "the next big thing" with the development of Dogecoin, Statement of Facts ¶124, even listing it in exchanges early on.

116. Moreover, they launched the comprehensive and "viral" (e.g., digitally ubiquitous) "to the moon" advertising campaign contemporaneously with the development of Dogecoin in 2013/2014, (Exhibits "E" "F" "G"), and they were therefore aware that Dogecoin was always intended as

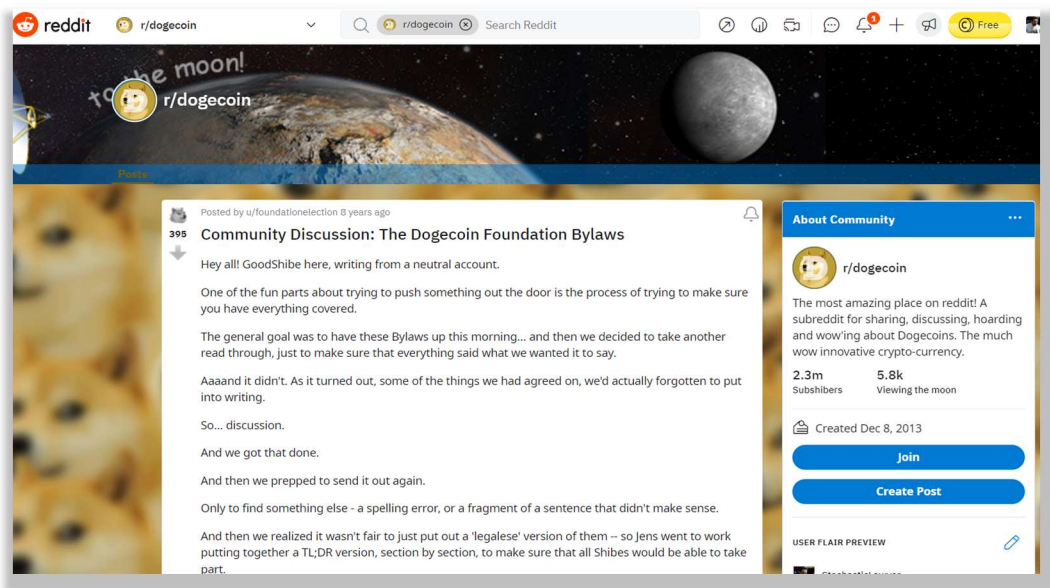
a **for-profit endeavor**, a conclusion buttressed by their comprehensive efforts to launch a development fund. **(Exhibit “N”)**

117. Article 1 of the Dogecoin Foundation bylaws further states that it, “*works to ensure the continued **prosperity** of the worldwide Dogecoin community.*” (emphasis added) **(Exhibits “O” & “P”)**

118. The co-founders relied on “Geek” social media platform “Reddit” to develop and market the Dogecoin investment and continue to do so to this day.

119. Reddit is an “alternative” social media platform for “geeks,” and became a household name with GameStop stock’s unexpected meteoric rise at the height of the pandemic, attributed to Reddit users who artificially inflated the price of the stock in an attempt to take on Wall Street.²⁹

120. In 2014 Dogecoin founders thus published Dogecoin’s bylaws in a *Reddit* post, to solicit public comments much as regulations are published in the federal register.³⁰



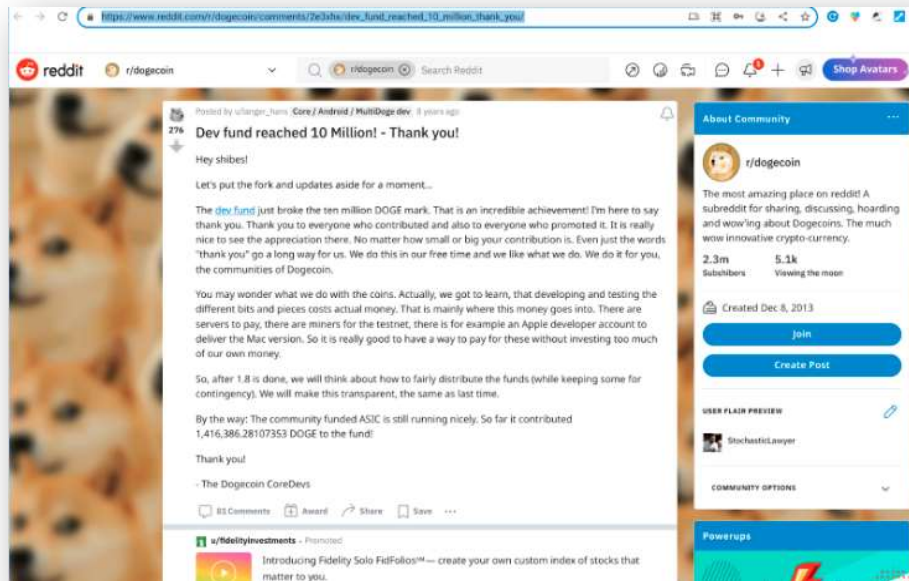
²⁹ <https://www.reuters.com/business/flush-reddit-rally-gamestop-plots-store-revival-2021-07-22/> (“*Flush from Reddit rally, GameStop plots store revival*”) (dated July 22, 2021, visited August 1, 2022)

³⁰ https://www.reddit.com/r/dogecoin/comments/29101x/community_discussion_the_dogecoin_foundation/ (visited July 25, 2022). (See Exhibit “P”). (bylaws Reddit posts with comments).

121. In another post during its formative days in 2014, the founders published a **Reddit** post setting forth Dogecoin's technical aspects and expressing concern with its **price and overall “profitability” for their purportedly “non-profit” organization**:

I also don't see that have any negative effect on the price, considering the amount of "dumped" coins would probably not change. Also, you as miners are not forced to mine Litecoin to get Dogecoin now ... You can still mine at your current pools directly to the Dogecoin network ... This might be highly unprofitable though after enough AuxPoW pools point their hashrate to the AuxPoW blocks. This will cause the difficulty to rise.³¹

122. In a subsequent *Reddit* post related to the creation of Dogecoin in 2013/2014, the “Dogecoin Core Developers” announced that Dogecoin’s development fund had reached 10 million *Dogecoin* (approximately 20 thousand US Dollars in 2013 Dogecoin prices)³² and in 2014 they set forth in *Reddit* that it would be in the “community’s best interests” to donate to the fund.³³



³¹https://www.reddit.com/r/dogecoin/comments/2ci90m/dogecoin_to_enable_auxpow_soon_all_infos_inside/ (Visited July 25, 2022). See also (Exhibit “Q”)

³²https://www.reddit.com/r/dogecoin/comments/2e3xhx/dev_fund_reached_10_million_thank_you/ (visited July 25, 2020). (Exhibit “N”).

³³https://www.reddit.com/r/dogecoin/comments/23mkf3/dogecoin_dev_fund_short_url_giveaway_50k_doge/ (Exhibit “R”).

123. Still active and as of August 2022 and boasting a balance of 13.6M *Dogecoin*, or nearly one million U.S. dollars as per Dogecoin's August 1, 2022 price, Dogecoin's development fund can be accessed at: <https://chain.so/address/devfund> (visited August 1, 2022).

124. Further depicting Dogecoin as an investment contract, in 2021, co-founder Defendant Markus published in *Reddit* an open letter in which he essentially admitted that Dogecoin was started in 2013 with the expectation that it would be the “next big thing,” lingo for startups which achieve multi-billion-dollar capitalization³⁴ to wit:

True value - an open letter from Billy Markus, co-founder and original creator of Dogecoin

Hi folks! ... I'd like to introduce myself to many new folks - I am Billy Markus, the original creator of Dogecoin. As you may have heard, it was indeed created for sillies after Jackson Palmer made an flippant tweet about it that idea being the 'next big thing' and I threw it together, without any expectation or plan. It took about 3 hours to make, with the bulk of that time making alterations to the client to make the text Comic Sans and some custom graphics and wording for different pieces of the UI.

125. In 2018, co-founder Defendant Jackson Palmer was interviewed by Bloomberg and similarly stated that his motivation to launch Dogecoin was Bitcoin's meteoric rise as an investment, and that his new creation “Dogecoin” would be the “next big thing,” lingo for startups which reach multi-billion-dollar capitalization:

“I was really fascinated by crypto currency markets back in 2013... late 2013 was when we saw Bitcoin for the first time go from one dollar, you know, to a thousand dollars...in the space of a couple of weeks and so, I was kinda getting caught up in the mania .. the addiction of checking the price every day...and I noticed that a new altcoin was coming onto the scene...and then I said 'I'm going to invest in Dogecoin, that's the next big thing.’”³⁵

126. The founders in 2014 also set up a **Dogecoin Developers Twitter** account, which currently has half a million followers,³⁶ and they also set up a profile/account on the popular programmer's

³⁴https://www.reddit.com/r/dogecoin/comments/lfl5iz/true_value_an_open_letter_from_billy_markus/ (visited July 25, 2022). (Exhibit “S”)

³⁵ <https://www.youtube.com/watch?v=v21i5OUTUHY>

³⁶ https://twitter.com/dogecoin_devs

repository **Github**,³⁷ to encourage others to help in its technical development:



127. The Dogecoin Developers in a Tweet also admitted having contacted crypto exchanges presumably in order to generate interest in the investment, and as a result Dogecoin is currently **listed at least 50 crypto exchanges:**



128. The foregoing acts regarding the development of Dogecoin, its continued maintenance, and its listing on exchanges, were implemented through the use of the Reddit and Twitter social media portals from 2014 to present.

129. **The foregoing acts demonstratively show that Dogecoin was intended to be, and is, an investment contract and security within the Security and Exchange Commission's jurisdiction.**

iii. The Rise of Dogecoin and Musk's Takeover of the Investment

130. As per price tracker "Coinmarketcap," on December 15, 2013, Dogecoin opened at a price

³⁷ <https://github.com/dogecoin/dogecoin/tree/1.14.6-dev>

of \$0.0005588 before closing at \$0.0002979.

131. By December 21, 2013, the Dogecoin **market cap had risen to \$3.71 million**, and Dogecoin's price then increased over 10-fold in its first fifteen days to \$0.0023.

132. Over the next year, the price dropped, closing at \$0.0001882 on December 15, 2014.

133. By April 1, 2019, the market cap had slowly grown over six years to \$250 million on April 1, 2019, with a modest daily trading volume of \$19 million.

134. And by May 7, 2021, its market cap had soared to over **\$95 billion** (source: coinmarketcap.com).

135. **In fact, the top 10 Dogecoin “wallets” now collectively hold nearly \$4.5 Billion (U.S.) worth of Dogecoin (as of August 1, 2022):³⁸**

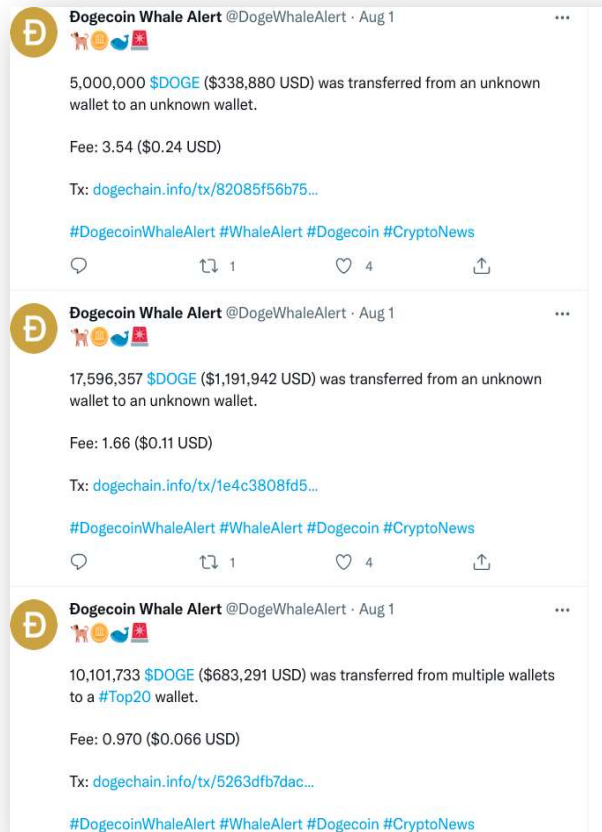
| Top 100 Richest Dogecoin Addresses | | | | | | | | | |
|---|---------------------------------------|------------|------------------------|------------------------|------|------------------------|------------------------|------|--|
| Address | Balance ΔΔΔΔΔΔΔΔ | % of coins | First In | Last In | Ins | First Out | Last Out | Outs | |
| 1 DPDLBAe3RGQ2GiPxDzhgicmpZCZD8cSBgZ wallet: Robinhood | 40,839,330,976 DOGE (\$2,763,304,339) | 30.13% | 2022-06-14 13:24:06 | 2022-07-26 16:06:09 | 63 | 2022-06-14 20:23:20 | 2022-07-26 16:06:09 | 5 | |
| 2 DE5opaXfjgDhFBqL6BDxTAQ56zkX6EToX wallet: Binance | 7,247,474,453 DOGE (\$490,396,574) | 5.35% | 2019-07-17 03:41:07 | 2022-07-26 10:09:59 | 277 | 2019-07-17 04:27:03 | 2022-06-24 19:55:00 | 229 | |
| 3 DR5qEwcnJX3GZWH9Twtwk8D5ewqgJz13k wallet: 2352974 | 6,834,386,704 DOGE (\$462,445,207) | 5.04% | 2019-09-23 21:35:10 | 2022-08-01 12:21:46 | 6041 | 2019-11-11 04:48:03 | 2022-07-21 12:01:04 | 5930 | |
| 4 DDTtqnuZSkIRTSqh2c7sNtqrJmV3kXYdGG wallet: Cryptasy | 5,031,001,904 DOGE (\$340,420,117) | 3.71% | 2014-01-11 04:15:27 | 2022-07-18 11:48:12 | 593 | 2014-01-13 05:26:08 | 2014-01-13 05:26:08 | 1 | |
| 5 DGottmgfzvJzhfmlvGdA2JpMjM1DsSkJ wallet: Binance | 2,381,615,532 DOGE (\$161,150,771) | 1.76% | 2022-01-27 09:01:28 | 2022-02-08 21:57:48 | 7 | 2022-04-25 11:17:14 | 2022-04-25 11:17:14 | 6 | |
| 6 DDogeartyxxxxxxxxxxxxxxxxxw1dfrr wallet: Dogearty-XDP-burned | 1,854,583,954 DOGE (\$125,489,455) | 1.37% | 2014-08-12 13:30:39 | 2022-07-27 16:59:09 | 3369 | | | | |
| 7 DGmzv29rIEltuigZCUD6sWoHEHPdSbxUB wallet: Binance | 1,400,000,007 DOGE (\$94,730,269) | 1.03% | 2022-05-23 06:48:20 | 2022-06-20 15:59:51 | 23 | | | | |
| 8 DTXwWCtpM6pP7NtqqiMdBE385AuW1desV | 1,270,009,977 DOGE (\$85,934,562) | 0.9371% | 2022-01-14 01:48:57 | 2022-01-26 21:38:09 | 8 | | | | |
| 9 D9a1Ah7mUNA9wNqHPER4DN9zNLqcYFDZW | 1,000,010,007 DOGE (\$67,665,155) | 0.7379% | 2016-06-13 11:13:11 | 2022-05-08 22:17:57 | 33 | | | | |
| 10 D8WhgsmFuk4mvsrwYjdHXL45LPz3bS1S wallet: Kraken | 1,000,000,039 DOGE (\$67,664,480) | 0.7379% | 2018-02-22 13:38:08 | 2021-12-28 23:21:16 | 14 | 2018-03-29 14:14:19 | 2018-03-29 14:14:19 | 1 | |

136. Further, the equivalent in Dogecoin of **tens of millions of U.S. dollars per day** are transferred between Dogecoin “wallets,” and on August 1, 2022, for instance, there were nearly a dozen Dogecoin transfers of more than **two hundred fifty thousand dollars, or 4M Dogecoin**.

137. The following three Dogecoin transfers alone, which took place in the span of only a few

³⁸ <https://bitinfocharts.com/top-100-richest-dogecoin-addresses.html>

hours on August 1, 2022, totaled nearly **two million dollars**:



Source: <https://twitter.com/DogeWhaleAlert>. (August 1, 2022)

138. In one transaction on July 19, 2022, Dogecoin worth over **\$200 million U.S.** was transferred to a **Robinhood** trading app Dogecoin Wallet:



139. Defendant Musk has been instrumental in Dogecoin's meteoric rise and profitability—

which was the goal of the founders when they launched Dogecoin with the expectation that it would become, **“the next big thing.”** Statement of Facts ¶124

140. On or about April 2, 2019, Defendant Musk thus became *de facto* leader of the **Dogecoin Enterprise**, and he started advising Dogecoin developers and tweeting about Dogecoin to his nearly one hundred million followers.

141. Since that time, Defendant Musk dubbed himself the “*Dogefather*,” and has tweeted regularly to his followers that Dogecoin is the “people’s crypto,” and that he would **“support it.”**

142. Defendant Musk has also tweeted a myriad of misleading claims about Dogecoin’s potential for growth, including the comprehensive **“to the moon”** meme-based advertising campaign (**Exhibits “E” “F” “G”**), **which promised astronomical profits.**

143. Further, Mr. Musk claimed in response to this lawsuit that his company Boring Co would “eventually” accept Dogecoin - without stating *when*, he misleadingly asserted that a “DOGE-1” satellite would launch to the moon in early 2022 (*it has not yet launched*), and he misleadingly said that Dogecoin would be “literally” sent “to the moon” - when in reality it resides in a distributed database spread across multiple computers (nodes) scattered all over the world and cannot be “sent” anywhere.

144. **The foregoing were intentional acts meant to manipulate the market and resulted in a de facto pyramid scheme to enrich the coffers of his employees, whom he admitted he sought to help (because “they are not that wealthy”) at a Bloomberg interview in June of 2022, as well as in a tweet of October 23, 2021.**

145. As a result, millions of people throughout the United States and around the world, including their family, friends, employees, and followers began to purchase Dogecoin, causing the price to skyrocket 36,000% without any financial basis, only to then experience a dramatic downturn

during the crypto crash of 2021/2022,³⁹ which saw Dogecoin lose over 90% of its value.

iv. Dogecoin was Peddled as a “Joke” Coin to Mislead Regulators

146. Throughout its structured development and founding, the result of a business plan which included formal bylaws since early 2014, and listings on crypto-exchanges within days of its launch, the founders of Dogecoin and, as of recent, defendant Elon Musk, have referred to the scheme as having started as a “joke”- strictly to conceal its profit motive and to attract investors.

147. The numerous references to the investment as having started as a “joke” are designed to avoid regulatory oversight by creating the impression that Dogecoin is a game like Monopoly.

148. As an example, at an appearance in Saturday Night Live in May of 2021, Defendant Elon Musk misleadingly touted the “fun” coin as having started as a “joke.”

149. Numerous posts from Dogecoin’s own verified Twitter account (3.4M followers) also reference Dogecoin as a “joke,” e.g. as recently as July 10, 2022, Dogecoin Tweeted:



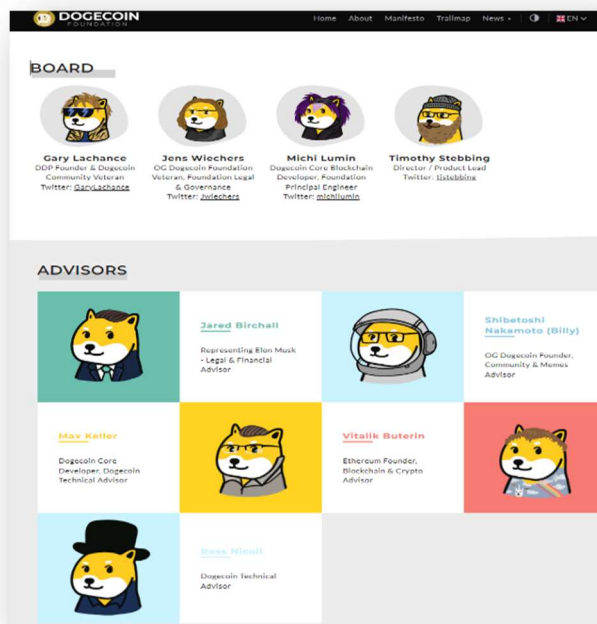
³⁹ <https://www.forbes.com/sites/investor/2022/06/23/bitcoin-to-0-crypto-crash-of-2022/?sh=788191d78738> (June 22, 2022, Forbes: *Bitcoin To \$0? Crypto Crash Of 2022*) (“But speculation and criminal activity are just a tiny sliver of the intrinsic value of crypto.”)(visited August 1, 2022)

150. Co-founder **Billy Markus**, who has interacted hundreds of times with Musk on Twitter, similarly tweeted in June of 2021 that Dogecoin began as a joke:



151. These “joke” references are false, as the Dogecoin investment has been marketed with promises of profitability since 2013 (“to the moon”), is listed in at least 50 crypto exchanges, and it began its development as the “next big thing”, Statement of Facts ¶124, in a structured manner with bylaws and an incorporated *Dogecoin Foundation* responsible for its continued development.

152. In fact, Defendant Elon’s Musk’s reputed “right hand man” **Jared Birchall** is an **advisor to the Foundation**, as per its website, <https://foundation.dogecoin.com/about/>:



153. In a deliberate misrepresentation to his nearly 100 million followers at the time, Defendant Musk on October 23, 2021, nonetheless *denied* that Jared Birchall had any involvement with the Foundation, despite his prominent role:



154. Further depicting Dogecoin as an investment in lieu of a “joke,” in a Bloomberg interview in 2018, Dogecoin co-founder Jack Palmer admitted that he was “fascinated” by Bitcoin’s meteoric price rise when he developed Dogecoin, which would be the “next big thing,” lingo for startups which reach multi-billion-dollar capitalization.

155. This admission comports with co-founder Bill Markus’ Reddit post of 2021, where in an open letter he admitted that the founder’s expectation was for Dogecoin to become “**the next big thing**,”

156. Core Dogecoin developer Ross Nicoll, the architect of Dogecoin’s technical and financial infrastructure, in a 2014 Tweet also referenced Dogecoin’s “value”:



157. In addition, the founders listed Dogecoin in an exchange as early as 2014, and in June of 21, 2017, the Dogecoin Developers celebrated the listing of Dogecoin in another exchange, thus

depicting a clear intent to profit:



158. And in another tweet on January 12, 2018, they expressed concern with exchanges charging fees to list Dogecoin:



159. As the foregoing makes clear, **Dogecoin was never intended to be a “joke.”** From its very beginnings, it was in fact formally organized, structured, with an apparent business plan and then marketed as a “fun” “coin” which started as a “joke” - **in a clear bid to avoid scrutiny by regulators (who prefer non-joke, e.g. genuine, securities).**

4. DOGECOIN LISTED IN AT LEAST 50 CRYPTO EXCHANGES


160. Dogecoin was launched on four exchanges in the winter of 2013/2014 and within days of being launched on December 6, 2013, it held a \$3.7 million market cap.

161. In fact, the founders, within weeks of its December 2013 launch, celebrated the listing of Dogecoin in an Exchange via a Tweet dated February 2014, even suggesting a “**surge**”:



162. At that time, Dogecoin was one of only approximately seven cryptocurrencies.
163. Dogecoin was initially listed in four cryptocurrency exchanges, to wit, *Moolah*, *Cryptsy*, *Coins-E* and *Coined Up*.
164. As of 2022, Dogecoin is now **listed in at least fifty crypto exchanges (Exhibit “T”).**
165. The primary driver of exchange listings has been through intensive marketing efforts using *Reddit* and *Twitter* posts.
166. For example, the following Dogecoin *Reddit* posts go as far back as 2014:

| YEAR | LINK/Post | CONTENTS |
|------|---|--|
| 2014 | https://www.reddit.com/r/dogecoin/comments/2910 | Dogecoin Foundation Bylaws |
| 2014 | https://www.reddit.com/r/dogecoin/comments/2e3xhx/dev_fund_reached_10_million_thank_you/ | Development Fund Reaches 10 Million |
| 2014 | https://www.reddit.com/r/dogecoin/comments/23mkf3/dogecoin_dev_fund_short_url_giveaway_50k_doge/ | Asking the community to donate to the Fund for their “benefit” |

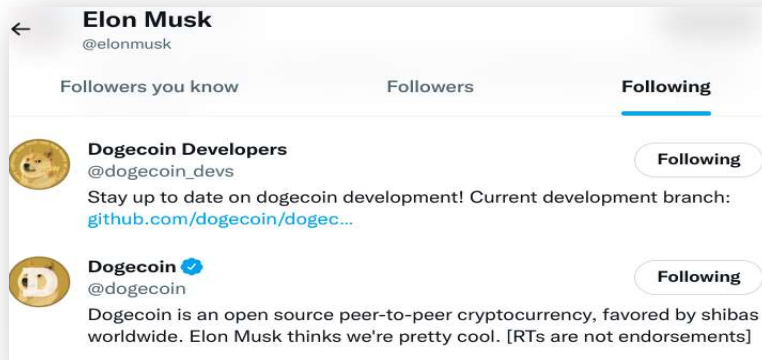
| | | |
|-------------------|---|---|
| 2014 | https://www.reddit.com/r/dogecoin/comments/2glo9a/such_wow_many_work_very_foundation/ | <i>“Such Wow, Many Work, Very Foundation”</i> , catchphrases to encourage the community. |
| Created Dec 2013. | https://www.reddit.com/r/dogecoin/ | Official Dogecoin Reddit with 2.3M subscribers, created Dec 8, 2013 |
| 2021 | https://www.reddit.com/r/dogecoin/comments/1fl5iz/true_value_an_open_letter_from_billy_markus/ | Post by Dogecoin Founder Billy Markus admitting that Dogecoin was founded as the “next big thing.” |
| April 14, 2021 | https://www.reddit.com/r/dogecoin/comments/mqwyn8/they_legally_gotta_listen_to_us_now/ | <p>Founder Billy Markus, insisting that Dogecoin be Listed in Popular Exchange Coinbase (for profit):</p>  |

5. MARKET MANIPULATION & MATERIAL MISREPRESENTATIONS

i. The Dogefather: Musk’s Use of Twitter to Manipulate Dogecoin Market

167. Musk is known as a prolific Twitter user. With over **100 million followers** and his recent attempt to purchase the social media giant, Musk recognizes its power and has used it to manipulate the Dogecoin market for profit.

168. Notably, of the only 116 people Musk himself follows on Twitter (considered a privilege), two of them are **Dogecoin** and **The Dogecoin Developers**:



169. Mr. Musk also follows, and regularly communicates with, the founder of Dogecoin, Billy Markus A.K.A. “Shibetoshi Nakamoto”:



170. And on April 1, 2019, Dogecoin investors chose Elon Musk as the “CEO” of Dogecoin in an online survey posted on Dogecoin’s official Twitter account:



171. One day after having been designated “CEO” of Dogecoin, although there were well over 2,000 competing “altcoins,” Defendant Musk denominated Dogecoin as his preferred cryptocurrency, in a clear bid to generate interest, and profit, in the investment:



172. In February of 2021, **in a tweet which received half a million likes**, Musk then formally christened *Dogecoin* as “the people’s crypto”:



173. Defendant Musk is the world’s wealthiest individual with an estimated net worth in excess of \$250 billion and over 100 million Twitter followers, who often “retweet” his frequent *Dogecoin* and cryptocurrency tweets to billions of people around the world.

174. The power and reach of Musk’s Twitter feed is formidable, since 2019 Musk’s *Dogecoin* tweets have been liked over 13 million times, retweeted over two million times, and commented over one million times. Defendant Elon Musk’s tweets have therefore received a total of over 16 million direct interactions and hundreds of millions of impressions (views). (**Exhibit “U”**).

175. The over two million “retweets” are in turn exposed to tens or hundreds of millions more people in addition to Musk’s followers.

176. Since 2019 Musk thus has made over 100 *specific* Dogecoin-related tweets using his

formidable marketing prowess, Twitter, in a clear effort to knowingly **manipulate the market** (Exhibit “U”).

177. His more generalized crypto tweets, those not necessarily referencing Dogecoin, e.g. BTC or Bitcoin-related tweets, have likely similarly received millions of interactions and views - **thus underscoring the power of Musk to manipulate the market using social media giant Twitter.**

178. Defendant Musk’s already formidable marketing prowess was further enhanced when he was formally christened by investors as the “Dogefather,” which led to the online dissemination of thousands of “memes” depicting his “support” of Dogecoin, in a bid by online investors and other personalities to increase the price and market cap of investment contract Dogecoin.

179. Defendant Musk deliberately encouraged such conduct by others, including the use of memes depicting him as the Dogefather, as part of his scheme to manipulate the market, which has also led to a de facto pyramid scheme since this comprehensive Dogecoin marketing campaign solicits “donations” from others, to enhance the pockets of the major stakeholders in Dogecoin – or his employees as he admitted at a June 2022 Bloomberg interview.

180. **Accordingly, on April 28, 2021, free from regulatory oversight, Mr. Musk declared himself the “Dogefather” of Dogecoin and announced an appearance on SNL:**



181. The *financial press* quickly took notice of, and reported, Mr. Musk’s promotional efforts, e.g., on May 1, 2021, financial news outlet *MarketWatch* published an article with the headline “*Elon Musk dubs himself ‘The Dogefather’ in SNL promo tweet, prompting real people to invest*

actual money in joke crypto”)⁴⁰.



182. Another news outlet reported that, “*Dogecoin Holders are Wishing 'Dogefather' Elon Musk on Father's Day for Boosting Cryptocurrency*,” referring to *Dogecoin* in the article as a “meme crypto-currency”⁴¹:



183. This news article was in response to thousands of public comments and memes made in

⁴⁰<https://www.marketwatch.com/story/elon-musk-dubs-himself-the-dogefather-in-snl-promo-tweet-prompting-real-people-to-invest-actual-money-in-joke-crypto-11619633399> (visited August 1, 2022).

⁴¹<https://www.news18.com/news/buzz/dogecoin-holders-are-wishing-dogefather-elon-musk-on-fathers-day-for-boosting-cryptocurrency-3871478.html> (June 21, 2021, visited August 2, 2022).

response to Musk’s Father’s Day message, wishing the “Dogefather” a Happy *Father’s* Day, e.g. Dogecoin co-founder Billy Markus, who frequently interacts with Musk, tweeted:



184. Other such “meme” responses to Musk’s Father’s Day tweet, wishing the “Dogefather” a happy “Father’s” Day, included the tweet below (among thousands of others)⁴²:



⁴² The thousands of responses to Musk’s “Father’s” day message, wishing the DogeFather” a happy Father’s Day, are available at the following link: <https://twitter.com/elonmusk/status/1406708267141648384>.

185. Prior to these “Doge father” references, on February 4, 2021, Musk had tweeted a “meme” of himself holding up the Dogecoin dog to encourage Dogecoin investment. The tweet **received nearly one million likes**:



186. Dogecoin’s price increased by 50% within minutes of Musk’s tweet:



187. This increase in Dogecoin market cap and price comports with the *Blockchain Research Lab* scientific study, which causally connected Musk’s tweets to Dogecoin price fluctuations, to wit, “The “Musk Effect” – How Elon Musk’s tweets affect the cryptocurrency

market” (*Dr. Ante*, 2022). (**Exhibit ‘A’**)

188. In addition to using his formidable Twitter prowess to manipulate the market, defendant Musk uses his companies to further his scheme.

189. Musk is the CEO of Defendants SpaceX, Tesla, Inc. and BC, who jointly promote Dogecoin by suggesting that they will accept payment of goods or services using Dogecoin - and only Dogecoin (e.g. in lieu of Bitcoin) solely for the purpose of artificially inflating Dogecoin.

ii. Tesla’s Adoption of Dogecoin as Legal Tender is Knowingly Deceptive

190. Defendant Musk on or about January 14, 2022, and then again on May 27, 2022, deceptively announced the adoption of Dogecoin as legal tender for the purchase of Tesla “merch,” or merchandise, and “soon” for SpaceX.⁴³



191. The January tweet, which received 327,000 “likes” and nearly 50,000 retweets, caused the Dogecoin price to surge by 14%, as reported by the media.⁴⁴

192. The purported adoption of Dogecoin as legal tender, however, is either a misrepresentation or misleading hyperbole.

⁴³ “*Musk says Tesla to accept dogecoin for merchandise*” January 14, 2022, <https://www.reuters.com/technology/tesla-merchandise-buyable-using-dogecoin-musk-says-tweet-2022-01-14/>

⁴⁴ *Id.*

193. For instance, Tesla’s online store, <https://shop.tesla.com/>, only accepts Dogecoin payments for a few of its products, and even then, the costs and fees make such purchases unlikely.

194. The Tesla online store lists over 170 products for sale.

195. However, only 3 can be purchased with Dogecoin: *Giga Texas Belt Buckle*, a *Cyberwhistle*, and a *Cyberquad* for kids.⁴⁵

196. Further, “*Tesla also informed customers who plan to pay in the cryptocurrency that the Dogecoin network charges network fees each time a payment is made in the currency. The customer is responsible for any costs associated with Dogecoin transactions.*”⁴⁶

197. Thus, while Tesla allows payment with Dogecoin for these three accessories, there is little value in doing so for the following reasons: (1) There are network fees associated with using Dogecoin that are not charged to those who pay with fiat currency; (2) Purchases from Tesla with Dogecoin can't be returned, changed, or canceled, unlike fiat currency. (3) If one sends the wrong amount of Dogecoin the purchase is subject to cancellation; (4) If the purchaser accidentally pays too much Dogecoin, they may not get a refund; (5) It can take up to six hours to confirm a purchase; (6) It is more complicated and time consuming then paying with a check or credit card; and (7) the environmental impact is more than 600,000 times that of a single Visa transaction.

198. Further, an attempt on July 17, 2022, to purchase one of the Tesla items which purportedly can be purchased online with Dogecoin did not include an option for payment in Dogecoin, thus further underscoring that Tesla’s alleged acceptance of Dogecoin is a misrepresentation.

iii. Market Manipulation – “To the Moon” Advertising Campaign

199. *Virtual* currency Dogecoin “resides” in a distributed database called a “blockchain” as a

⁴⁵ <https://www.teslarati.com/tesla-launches-dogecoin-payments/>

⁴⁶ Id.

transaction only, from which transaction a unit of virtual currency is *implied or inferred*.

200. This blockchain in turn is spread globally among tens of thousands of internet nodes or computers, and therefore its contents cannot be “sent” anywhere. See, e.g., United States v. Gratkowski, 964 F.3d 307 (5th Cir. 2020) (“*The ...**blockchain contains only the sender's address, the receiver's address, and the amount of Bitcoin transferred.***”). See also SEC v. Telegram Grp. Inc., 448 F. Supp. 3d 352 (S.D.N.Y. 2022) (“the blockchain... is a ***widely distributed but secure ledger or account of transactions***”).⁴⁷

201. The entries on the blockchain themselves, as explained *supra*, consist of nothing more than transactions depicting the transfer of *virtual* units of currency which do not exist physically – or digitally for that matter.

202. At best, only the “**private**” key used to access a particular Dogecoin digital ledger transaction can be stored in separate media (such as a thumb drive or even written on paper) which can then be handled separately from the **public** key or wallet which depicts ownership of a particular unit of virtual currency in the form of a prior transaction.

203. The following image illustrates what these private/public keys, which work alongside the blockchain, actually look like in the case of popular crypto-currency Bitcoin:

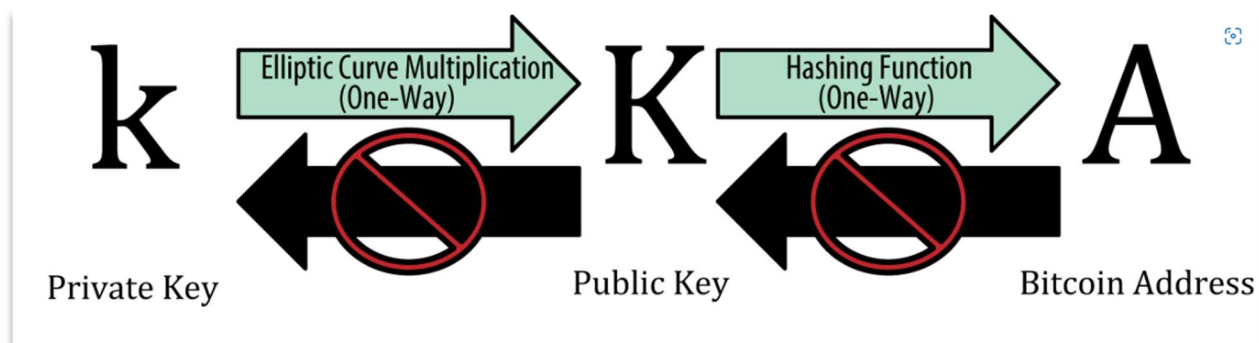


⁴⁷ Dogecoin’s blockchain can be accessed here, and through various other online “blockchain explorers”: <https://blockchair.com/dogecoin>

204. This image of the keys used to access a blockchain transaction (together, as a group, known as the “bitcoin”) contrasts *sharply* with the manner in which investors and promoters *misleadingly* market this investment *ad nauseam*, as a solid sparkling gold coin (Dogecoin depiction below):



205. A “wallet” is also associated with the crypto keys, more specifically: “A bitcoin wallet contains a collection of key pairs, each consisting of a private key and a public key. The private key (k) is a number, usually picked at random. From the private key, we use elliptic curve multiplication, a one-way cryptographic function, to generate a public key (K). From the public key (K), we use a one-way cryptographic hash function to generate a bitcoin address (A).”⁴⁸



206. The wallet, or “bitcoin address,” which is generated from the public key, “is a string of digits and characters that can be shared with anyone who wants to send you money. Addresses

⁴⁸ *Mastering Bitcoin*, 2nd Edition by Andreas M. Antonopoulos, (2017)
<https://www.oreilly.com/library/view/mastering-bitcoin-2nd/9781491954379/ch04.html>

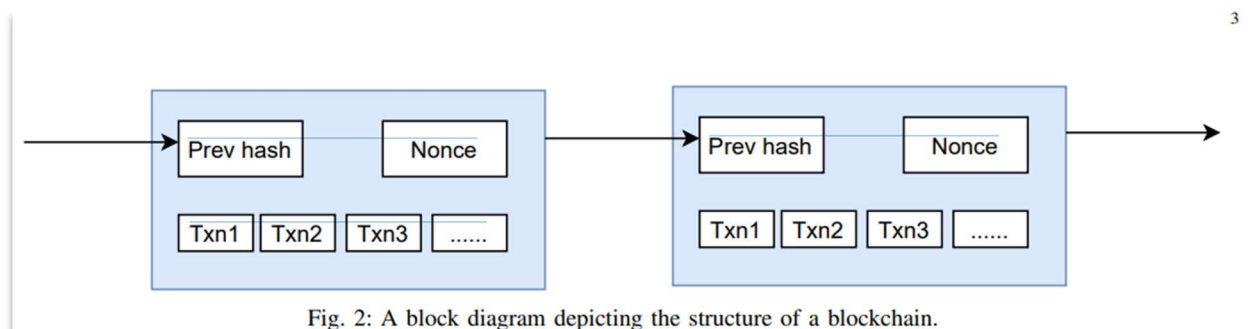
produced from public keys consist of a string of numbers and letters, beginning with the digit 1.... The bitcoin address is derived from the public key through the use of one-way cryptographic hashing. A “hashing algorithm” or simply “hash algorithm” is a one-way function that produces a fingerprint or “hash” of an arbitrary-sized input.” Ibid.

207. A person can thus “send” cryptocurrency to another person’s wallet with the *sender’s* private key, which the recipient can send to someone else using his own private key to that wallet.

208. “Sending” cryptocurrency **requires the blockchain**, without which nothing can be “sent” or received since, inter alia, the blockchain records and verifies the transaction using “consensus” algorithms, which purportedly creates “trust” in the transaction.

209. “A blockchain is a database that chronologically stores information in ‘blocks.’ These blocks have a storage capacity of information that consists of the stored information, a time stamp, the hash value of the previous block, and a unique identification number called the nonce.”⁴⁹

210. **The blockchain has been depicted by computer scientists as per the following diagram. “Txn#” represents the recorded transactions:**



Source: Analysis of Energy Consumption and Carbon Footprints of Cryptocurrencies and Possible Solutions (Kohli et al, 2022), available at <https://arxiv.org/abs/2203.03717>

⁴⁹ See, Analysis of Energy Consumption and Carbon Footprints of Cryptocurrencies and Possible Solutions (Kohli et al, 2022), available at <https://arxiv.org/abs/2203.03717>.

211. Once the transaction is **verified** or recorded in the distributed ledger, e.g. the blockchain – which may reside in tens of thousands of nodes or computers, then the transaction is complete.

212. This verification process, known as “consensus,” without which no one can own, send, or receive, *any* cryptocurrency, is computationally extensive and has a significant energy footprint. See, e.g., *The Energy Footprint of Blockchain Consensus Mechanisms Beyond Proof-of-Work* (Platt, Seddlmeir, et al, 2022)⁵⁰

213. **To summarize, since *virtual* currency Dogecoin is not an actual Gold “coin,” and it does not exist physically or digitally except as a collection of energy-intensive transactions and private/public keys, Dogecoin cannot be “sent” “to the moon” or anywhere else, much less “literally” so as asserted by Defendant Musk, *infra*.**

214. Notwithstanding, in a tweet to his followers on April 1, 2021, Elon Musk falsely or in a misleading manner tweeted that “SpaceX is going to put a **literal** Dogecoin on the **literal moon**” – suggesting that the **entire “coin”** would “reside” on the moon, which is impossible:



215. This tweet, at the apex of the Dogecoin bubble, received nearly **half a million “likes”** and over fifty thousand “retweets” each of which may have received millions of more “likes,” or expressions of approval.

216. It is likely that Elon Musk is aware that a “literal” Dogecoin cannot be “literally” sent to

⁵⁰ Available at: <https://arxiv.org/pdf/2109.03667.pdf>. See also **An Analysis of Energy Consumption and Carbon Footprints of Cryptocurrencies and Possible Solutions** (Kohli et al, 2022) (“*The electrical energy consumption of cryptocurrencies is over-proportionate compared to their technical performance*”), available at <https://arxiv.org/abs/2203.03717>.

the moon, yet he nonetheless launched this “literal moon” campaign using SpaceX, in a clear effort to manipulate the market and artificially inflate the Dogecoin price for the benefit of his employees, since *“they are not that wealthy.”*

217. This decision to “send” a “literal” Dogecoin to the moon also **capitalized on the Dogecoin Founder’s “to the moon” advertising campaign - which they had begun with the launch of Dogecoin in late 2013**, by leveraging the power of SpaceX to complement this misleading and comprehensive “to the moon” advertising campaign, which promised stratospheric Dogecoin prices for no substantive business reason. **(Exhibits “E” “F” “G”)**

218. Defendant Musk’s overt “literal moon” skulduggery continued on April 15, 2021, when he tweeted a “meme” depicting the “literal” Doge on the literal moon – the SpaceX CEO received **over 300,000 “likes”** for this advertisement, and likely millions of unrecorded “impressions”:



219. Subsequently, defendants SpaceX and Elon Musk in May of 2021 announced a future launch, *in early 2022*, of a **low-earth orbit satellite destined for the moon named “Doge-1,”** in a clear bid to **manipulate the Dogecoin market by leveraging SpaceX’s capabilities with the**

popular “to the moon” slogan:



220. This tweet, at the height of the Dogecoin bubble, received half a million likes and 125 thousand “retweets” by animated Dogecoin investors who rely on Elon Musk’s **market manipulation and misrepresentations** to increase their profits.

221. These three misleading “to the moon” announcements/tweets caused Dogecoin to increase from \$.053 on March 31, 2021, to \$.378 on May 2, 2021, a **600% increase** and corresponding windfall profits for Dogecoin investors and Musk’s employees specifically, who Musk himself admitted in an October 23, 2021 tweet that he sought to help, repeating this admission at a Bloomberg interview in June of 2022, wherein he asserted that, “*a lot of people who are... not that wealthy... just people that work around the factory at SpaceX or Tesla ... they’ve asked me to support Dogecoin... So I’m doing so...*”, and at a video podcast on August 5, 2022.

222. Subsequent media reports stated that the DOGE-1 satellite to the moon would launch in early 2022, e.g. that, “*Elon Musk’s SpaceX will launch the ‘DOGE-1 Mission to the Moon’ in the first quarter of 2022, with the company accepting the meme-inspired cryptocurrency as*

payment.”.⁵¹

223. A SpaceX representative also made misleading statements to the press in connection with DOGE-1’s and dogecoin’s *impossible* “trip” to the moon, mainly that cryptocurrency would be used in an “interplanetary” capacity, to wit, “*SpaceX vice president of commercial sales Tom Ochinero said in a statement that DOGE-1 ‘will demonstrate the application of cryptocurrency beyond Earth orbit and set the foundation for interplanetary commerce.’*”⁵²

224. Although it is possible for the private key of a Dogecoin to be stored in a satellite, it remains unclear who would use that key, and how to purchase goods, or how those goods or services would be delivered and to whom, or whether copies of the key would remain earth bound.

225. This “interplanetary commerce” hyperbole or misrepresentation thus had only one purpose – to **manipulate the Dogecoin market** so that Musk’s employees can benefit financially, as he admitted he would do at the June 2022 Bloomberg interview.

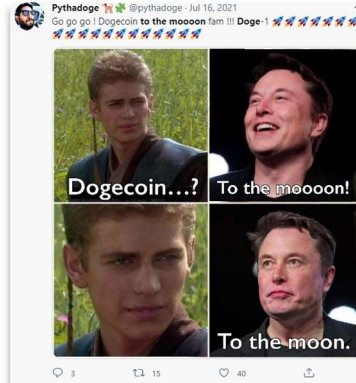
226. In fact, as of the filing of this amended complaint, the DOGE-1 moon satellite has not launched - thus constituting a material misrepresentation and market manipulation specifically implemented to increase Dogecoin’s price and market cap, since Musk and SpaceX had both represented that the satellite would launch in early 2022.

227. In addition, the repeated use of the phrase “**to the moon**” to suggest *speculative* Dogecoin growth - for no substantive reason - has been a central theme of the Doge Army’s promotional efforts, with the frequent use of Musk memes (caricature-based images featuring Musk) and tweets supporting the hyperbole that Dogecoin will go “to the moon” metaphorically (i.e. that Dogecoin’s market cap and price will increase).

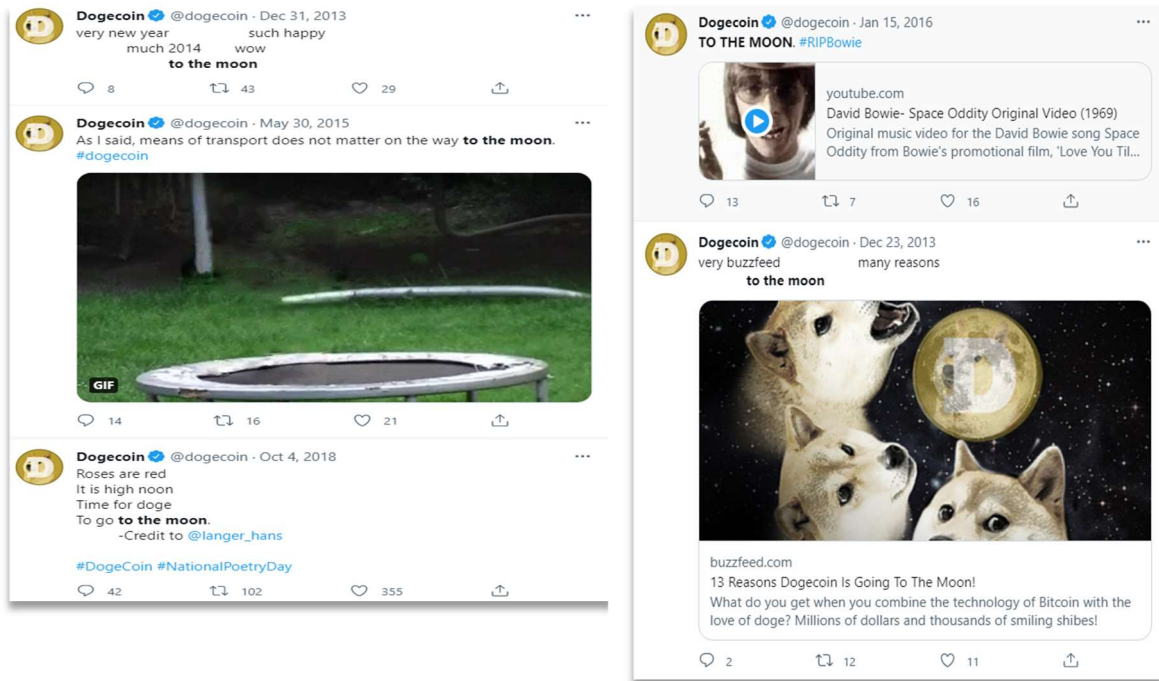
⁵¹ <https://www.cnn.com/2021/05/09/spacex-accepts-dogecoin-payment-for-doge-1-mission-to-the-moon.html> (May 9, 2021 - “*SpaceX accepts Dogecoin as payment to launch ‘DOGE-1 mission to the Moon’ next year*”).

⁵² Ibid.

228. In fact, the “to the moon” advertising campaign – which was started by Dogecoin’s founders - also including its extended spelling “moooon,” was extensive and prolonged, as depicted by the samples below out of hundreds of thousands of such “to the moon” memes found online in Twitter and Reddit (See Exhibits “E” “F” “G”):



229. This comprehensive “**To the Moon**” advertising campaign, was in **fact started by Dogecoin’s founders** and developers in 2013 as a means of expressing the wholly speculative hyperbole that Dogecoin would increase in price *for no meritorious business reason*, thus making it clear that from inception, Dogecoin was a *volatile investment contract*:

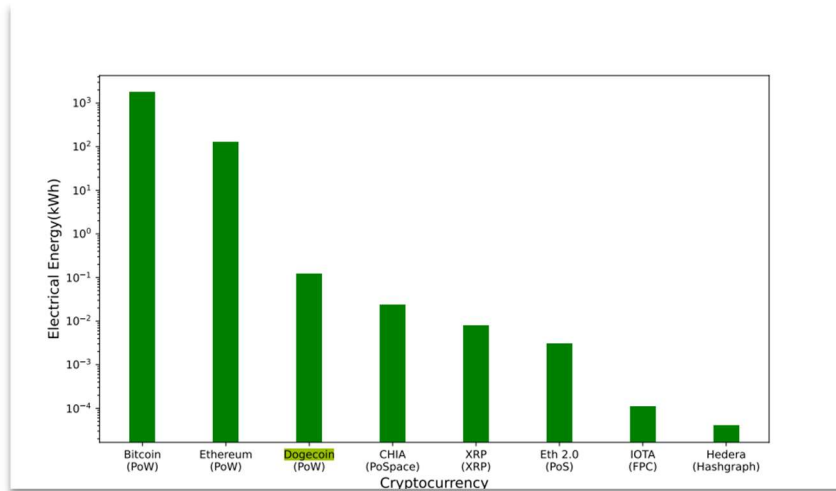


iv. Musk’s Preference for Dogecoin Despite its Carbon Footprint is Misleading and Meant Solely to Artificially Inflate Dogecoin

230. Millions of transactions “*are made every single day to exchange [crypto] currencies and their stock markets and operations run 24/7. The electrical energy consumption of cryptocurrencies is over-proportionate compared to their technical performance and despite their promising applications, cryptocurrencies have also been contributors responsible for **global warming due to their high carbon footprint**. It has been predicted that Bitcoin alone can raise the global temperatures by 2°C within the next three decades .”⁵³*

⁵³ See also An Analysis of Energy Consumption and Carbon Footprints of Cryptocurrencies and Possible Solutions (Kohli et al, 2022), available at <https://arxiv.org/abs/2203.03717>

231. Dogecoin, as per environmental scientists, has the third highest carbon footprint out of thousands of other cryptocurrencies,⁵⁴ *when measured on a per transaction basis, to wit:*



232. Accordingly, “*Dogecoin uses 0.12 kWh of energy per transaction*”⁵⁵

233. This consumption compares to other cryptocurrencies, which use substantially less energy per transaction than Dogecoin: “*XRP, Chia and IOTA are ranked above Dogecoin in terms of environmental impact. These currencies consume 0.0079 kWh, 0.023 kWh and 0.00011 kWh*”.⁵⁶

234. As such, **Dogecoin consumes approximately eleven hundred times more energy than cryptocurrency IOTA**, making IOTA (and XRP and Chia) among the more environmentally-friendly cryptocurrencies available.

235. The carbon footprint of a *single* Dogecoin transaction has also been compared to VISA transactions, Dogecoin transactions *each* reasonably exceeding the carbon footprint of **624,000 VISA transactions** by debit/credit card.⁵⁷

236. Further, its yearly carbon footprint is that of the *country* of Guyana, and a single Dogecoin

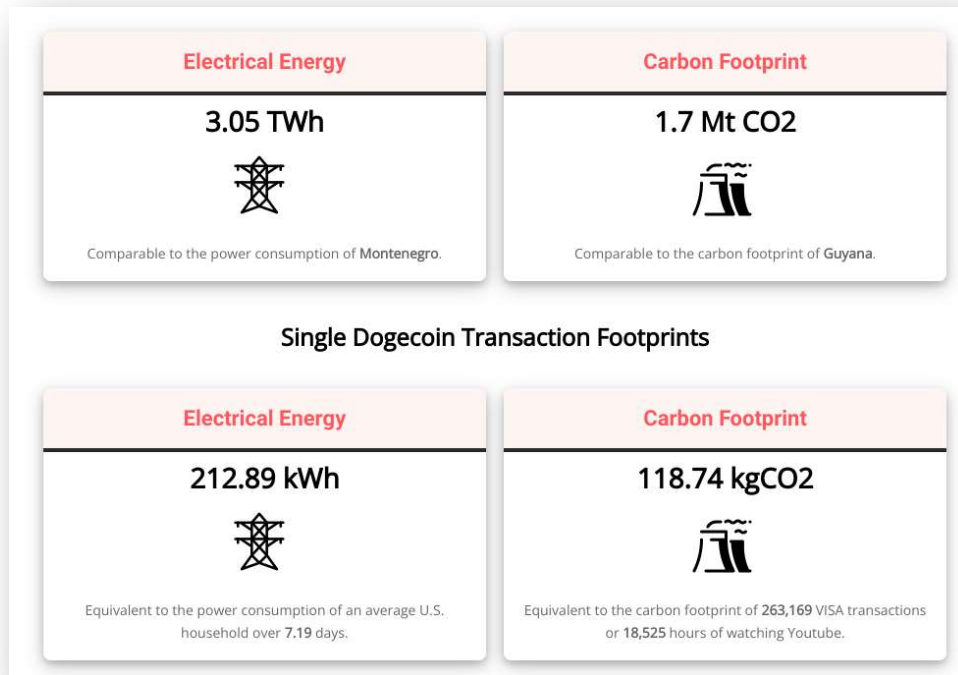
⁵⁴ *Ibid.*

⁵⁵ <https://www.gfinityesports.com/cryptocurrency/dogecoin-environmental-impact-energy-consumption-environmentally-friendly-cryptocurrency/> (May25, 2021). Attached as (**Exhibit “V”**).

⁵⁶ *Ibid.*

⁵⁷ <https://digiconomist.net/dogecoins-growing-energy-problem/>

transaction is equivalent to the power consumption of the average U.S. household for seven days:



SOURCE: <https://digiconomist.net/dogecoin-energy-consumption/> (visited Sep. 1, 2022)

237. Since there are tens of thousands of such Dogecoin transactions per day, Dogecoin’s carbon footprint is formidable.

238. At the height of the Dogecoin bubble on May 12, 2021, Defendant Musk, aware of this environmental issue, tweeted that he was “working with” Dogecoin developers to make Dogecoin more “efficient,” e.g. to reduce its carbon footprint and/or to make transactions faster:



239. In a subsequent Tweet two days later, Musk tweeted that significant improvements in Dogecoin processing time were required to achieve “efficiency,” e.g. a lower carbon footprint. As he had previously tweeted he was “working with” Dogecoin Developers (when in reality he was *likely* not intimately involved), this **tweet was deceptive in that it implied that Musk would help Dogecoin Developers achieve these significant technical changes**, to wit:



240. The market cap of Dogecoin reached an all-time high in early May of 2021, and somewhat coincided with these misleading tweets.

241. As set forth *supra*, Dogecoin’s carbon footprint is formidable and, given Musk’s countless Tweets touting Dogecoin’s “to the moon” pecuniary potential as well as being the “people’s crypto,” **the foregoing tweets espousing Dogecoin environmental development were misleading, as they suggested that Dogecoin’s carbon footprint could be readily remedied – notwithstanding that the more Dogecoin is purchased/sold (Musk’s end-goal), the higher its Carbon Footprint.**

242. Further, it is in fact not certain whether, or to what extent, Musk actually “worked with” Dogecoin Developers to improve its speed and hence carbon footprint.

243. Upon information and belief, the **tweet asserting Musk was “working with” Dogecoin Developers was false** and was published to his 100 million followers *solely* to encourage investment in Dogecoin and artificially inflate its price.

244. The Dogecoin market cap of \$95 billion at the time he published these tweets, e.g. the Dogecoin bubble, is probative of his intent to artificially inflate Dogecoin “to the moon.”

245. In sum, “the *CEO's focus on making dogecoin more sustainable will likely continue to add support to the meme coin ... But, much like bitcoin, Musk's support could also end up expanding dogecoin's carbon footprint through heightening demand.*”⁵⁸

246. In fact, Musk’s purported “support” of Dogecoin’s environmental improvements was likely false and misleading, **and meant only to artificially inflate Dogecoin’s market cap and price for the benefit of Musk’s employees** since, “*they are not that wealthy.*”

v. Musk’s Response to Lawsuit: Further “Support” and Manipulation of Dogecoin

247. After this lawsuit was filed on June 16, 2022, Defendant Musk defiantly continued to artificially inflate Dogecoin, tweeting in favor of it several times, including the following:



248. Further, in a tweet in July of 2022, Musk expressed support “wherever possible” for his

⁵⁸ See <https://www.businessinsider.com/elon-musk-dogecoin-developers-environmentally-friendly-2021-5>

company BC to manipulate the Dogecoin market by purportedly accepting Dogecoin as legal tender *at some indeterminate time* in the future:



249. This tweet was in response to a tweet, shortly after this lawsuit was filed in June of 2022, by Defendant Musk’s company BC wherein they *prematurely* announced the purported *future* use of Dogecoin for payment.⁵⁹

250. In fact, the Boring “loop” currently offers free rides, but *purportedly* will charge a fee “*eventually*,” at some unknown time.⁶⁰

251. **As there was no need to advertise the “eventual” use of Dogecoin other than to increase the Dogecoin market cap, this announcement constituted market manipulation.**

252. In addition, in response to this lawsuit, Defendant Musk admitted at a Bloomberg interview in June of 2022 that he “supported” *Dogecoin*, presumably through market manipulation, in order to help his own employees become wealthy:

*“I have never said that people should invest in crypto... um ah in the case of Tesla and SpaceX and myself... em eh um ... SpaceX and Tesla (garbled) did buy some Bitcoin...am ... But it’s a small percentage of our total uh cash you know cash assets so, ahh, you know not a lot significance ah, **I also ahh, bought some Dogecoin** and **Tesla accepts Dogecoin** for some, ah, merchandise. And SpaceX we’re the same ... And I intend to... ‘possibly’ (garbled) support Dogecoin... Because I just heard a lot of people who are... not that wealthy... who, you know, have encouraged me to buy and support Dogecoin and I’m responding to those*

⁵⁹ “The Boring Company will accept Dogecoin on Loop”, July 6, 2022. <https://www.teslarati.com/the-boring-company-dogecoin-payment/>

⁶⁰ *Id.*

*people ... just people that work around the factory at SpaceX or Tesla ... they've asked me to support Dogecoin ... So I'm doing so I said I support Dogecoin, and I'm doing that."*⁶¹

253. At a video podcast interview on or about August 5, 2022, Defendant Musk further continued to espouse his "support," e.g. market manipulation, of Dogecoin, even admitting using his companies towards that goal, since the unregulated "joke currency" investment with a 90B dollar market cap "has a sense of humor", "doesn't take itself too seriously", and has dogs:

*I'm mainly supporting Doge. Frankly, um, because I think Doge is like the has the memes and dogs and and it seems like it has a sense of humor and doesn't take itself too seriously... even though Doge was designed to be like this ridiculous joke currency um the the actual total transactional throughput capability of Doge is uh much higher than Bitcoin... um and the fact that there's five billion Doge created every year um is is actually I think good for using it as a transactional currency um ... because it... (Host Question: "where is it used as a transactional currency?")... when you buy like Tesla merch and Space x merch with Doge...and you can also pay for Boring company rides in Vegas...like Boring company has uh tunnels under Vegas ... yeah ... yeah ... (Host: "and they're live available to use right now?")... one just opened from the one from like resorts world ... yea."*⁶²

6. ADDITIONAL MUSK DOGECOIN TWEETS

254. Defendant Musk has been tweeting about Dogecoin since at least April 2, 2019, to wit:



255. Defendant Musk on that same date also employed the use of a meme to artificially inflate Dogecoin, to wit:

⁶¹ <https://www.bloomberg.com/news/articles/2022-06-21/musk-says-he-supports-dogecoin-after-people-encouraged-him-to> (June 21 2022, Video and Text) (**Bloomberg**: "Musk Says He Supports Dogecoin as People Encouraged Him To")

⁶² https://www.youtube.com/watch?v=fXS_gkWAIs0&t=4974s



256. These tweets were prompted by a Dogecoin online survey on April 1, 2019, wherein 54.4% of 4,366 voters chose Defendant Musk as the “CEO” of Dogecoin:



257. Clearly, Defendant Musk accepted this appointment as “CEO” of Dogecoin by virtue of his conduct and that of Tesla, SpaceX, and TBC since April 1, 2019.

258. Further, Defendant Musk is and has been fully aware that his tweets and the actions of his co-defendants had direct effects on the Dogecoin price, market cap, and trading volume.

259. Thus, while Dogecoin had a market cap of \$250 million on April 1, 2019, trading at \$0.0020, after Defendant Musk’s tweets the **market cap rose to \$480 million**, and the price doubled to \$0.0040 in three days.

260. Musk’s admitted market manipulation was no less prevalent in the year 2020, e.g., on July 17, 2020, Defendant Musk misleadingly tweeted that ‘the Dogecoin standard’ would inevitably

take over the global financial system:



261. This tweet artificially inflated Dogecoin's price from \$0.0029 to \$0.0036, an **increase of nearly 25% in only two days**, also increasing the market cap from \$363 million to \$452 million.

262. On December 20, 2020, Defendant Musk manipulated the market with a single tweet, **promptly artificially inflating Dogecoin from \$0.0039 to \$0.0054, an increase of 40%**:



263. By February 2, 2021, Dogecoin was trading at \$0.03, a **300% increase**.

264. Then, on February 4, 2021, the world's busiest man deliberately **manipulated the market** further by posting no less than four tweets regarding Dogecoin:



265. These multiple tweets from February 2021 were “liked” by nearly 3 million people and resulted in the **market cap of Dogecoin hitting a then-all-time high of \$7.4 billion**

266. On February 5, 2021, Defendant Musk continued his quest to knowingly manipulate the market with the following survey, which capitalized on the “to the moon” advertising campaign started by Dogecoin’s founders in 2013 when they launched investment contract Dogecoin:



267. On February 7, 2021, Defendant Musk then posted a full-blown cryptocurrency instructional video on Twitter (“D is for Dogecoin! Instructional video.”) and tweeted, “Who let the Doge out” and by February 8, 2021, Dogecoin was trading at \$0.084, **an increase of over 250% in less than one week.**

268. On February 10, 2021, Defendant Musk used his own son, “lil X” to manipulate the Dogecoin market by introducing his toddler to what amounts to a gambling:



269. On February 11, 2021, Defendant Musk then continued his repeated market manipulation when with a tweet-meme which saw the **market cap soar to nearly \$11 billion:**



270. On February 21, 2021, Defendant Musk posted a tweet which caused the Dogecoin price to **increase by 16%**, from less than \$0.052 to \$0.06, to wit:



271. Then, on February 24, 2021, Defendant Musk once again continued to capitalize on the Dogecoin founder's "to the moon" advertising campaign, by tweeting a meme which caused Dogecoin's price to jump from \$0.043 on February 23, 2021, to \$0.06 the next day, **an increase of 40% in less than two days, to wit:**



272. The trading volume from February 20 - 24, 2021, was approximately **\$3 billion per day**.

273. On or about February 25, 2021, it was then reported that the SEC was investigating Defendant Musk for his tweets about Dogecoin.

274. Musk responded to the rumored headlines in a since-deleted tweet stating, ***“Good luck catching my rocket. Doge will live forever. #dogefather.”***⁶³

⁶³ As this tweet may have been deleted, the media's coverage of same can be found online, e.g., <https://www.valuwalk.com/elon-musk-fbi-investigation-pumping-dogecoin/>.

275. On March 1, 2021, Defendant Musk further knowingly manipulated the market, this time posting a “meme” which constitutes an admission of market manipulation with “memes,” as it suggested that such memes *alone* would cause Dogecoin’s price to increase or remain stable:



276. Then, on March 5, 2021, Defendant Musk continued to manipulate the market by purposefully tweeting that Dogecoin has Godly qualities, to wit:



277. On March 13, 2021, Defendant Musk then tweeted three additional times, causing **Dogecoin to rise from \$0.045 to \$0.063, an increase of 40% in two weeks.**

278. By April 22, 2021, Dogecoin dropped as low as \$0.18, but on April 24, 2021, it was announced that Defendant Musk would host Saturday Night Live (SNL) on May 9, 2021.

279. On April 28, 2021, Mr. Musk confirmed by tweeting: “The Dogefather SNL May 8.”

280. **On May 7, 2021, the Dogecoin Market Cap (Bubble) rose above \$95 billion and the price of the coin hit a peak of \$0.73, as a result of these Tweets.**

281. On May 13, 2021, as Dogecoin began to plummet after he called Dogecoin “a hustle” on

SNL, Musk tweeted a meme in a bid to manipulate the market by instructing Dogecoin holders not to sell. (As always – DON'T PANIC!):



282. This tweet was followed by a more encouraging Tweet which also **acknowledged collusion between Defendant Musk and the Dogecoin Developers, e.g.:**



283. **Within one day the price of Dogecoin jumped 50%,** soaring to \$0.58, as a result of Defendant Musk's encouraging tweet.

284. On May 16, 2021, the market cap dropped to \$63 billion and on May 20, 2021, the market cap dropped to \$46.6 billion, and the price dropped to \$0.27.

285. On May 20, 2021, Defendant Musk, in attempt to artificially inflate Dogecoin and reverse its recent downward spiral, publicly announced to his 100 million followers that he would HOLD,

290. These tweets combined received over 600 thousand “likes,” and potentially millions more “impressions” (unrecorded views).

291. On July 25, 2021, Defendant Musk tweeted a *Matrix*-movie-themed market-manipulating “meme,” causing Dogecoin’s price to increase from \$0.19 to \$0.23 (**over 20%**) in 24 hours:



292. On October 24, 2021, Dogecoin’s price stood at \$0.25, and then **increased** when Defendant Musk admitted that he was purposefully manipulating the market for profit:



293. By October 28, 2021, Dogecoin’s price had increased to \$0.33 as a result of Defendant Musk’s tweet, 33% in five days.

294. On October 31, 2021, Defendant Musk further artificially inflated the Dogecoin bubble by tweeting that, *“Tuition is in Dogecoin & u get a discount if you have a dog.”*

295. Then, on December 14, 2021, Musk openly colluded with his company Tesla, by tweeting that Defendant Tesla will accept Dogecoin payments for brand merchandise, resulting in a **price increase of 25%** from \$0.16 to \$0.20.

296. The next year, in 2022, Mr. Musk continued his overt attempt at controlling or manipulating the market, by tweeting on January 25, 2022, that: *“I will eat a happy meal on tv if @McDonalds accepts Dogecoin.”*

297. McDonalds did not adopt Dogecoin as legal tender, as Musk undoubtedly predicted, but the tweet successfully manipulated the Dogecoin bubble, as its price increased from \$0.14 to \$0.15 in 24 hours (8% increase) as a result of this tweet.

298. On February 18, 2022, Defendant Musk yet once again misleadingly claimed that Dogecoin would be widely adopted as legal tender, by tweeting, *“And futuristic diner / drive-in theater planned for Hollywood area! ... And, of course, **you can pay in Doge**,”* causing the Dogecoin price to increase from \$0.14 to \$0.15 in 24 hours (8% increase).

299. By March 11, 2022, the Dogecoin bubble was bursting, as its price had dropped to \$0.11 with a market cap of \$15.28 billion (from a high of \$95+ Billion in May in 2021).

300. On March 13, 2022, Defendant Musk explicitly tried to reverse this bear market, by tweeting, *“**I still own & won’t sell my Bitcoin, Ethereum or Doge fwiw.**”*

301. On March 18, 2022, Dogecoin’s market cap stood at \$16.39 billion and then on March 25, 2022, its market cap increased to \$17.82 billion as Musk intended with his tweets.

302. Defendant Musk’s activities thus caused a \$2.5 billion market cap spike, or approximately 15% in 14 days.

303. On May 12, 2022, Mr. Musk attempted to revive the defunct Doge by tweeting, “*it (Dogecoin) has the potential of currency,*” causing the price to increase from \$0.074 to \$0.093 in a day, approximately 25%.

304. By then, however, it was clear he had lost a formidable amount of control due to the volatility of the crypto market generally, as well as the crypto-crash of 2021/2022.

305. In sum, the **Dogecoin bubble had burst**, and Musk had lost the control he sought, as part of his coordinated efforts to “help” his employees.

7. MULTIPLE INDEPENDENT SCIENTIFIC STUDIES CAUSALLY LINK MUSK’S TWEETS TO DOGECOIN PRICE FLUCTUATIONS

306. Multiple scientific studies casually link Elon Musk’s twitter activity to anomalies in cryptocurrency trading, given the obvious nature of his activity, as well the stature of his persona.

307. Three of the more prominent publications are (**Exhibits “A” “B” “C”**):

Study 1: Blockchain Research Lab Study - *How Elon Musk’s Twitter Activity Moves Cryptocurrency Markets*

308. **Blockchain Research Labs** a reputable expert in cryptocurrency, a “*non-profit organisation ... dedicated to independent science and research on blockchain technology and to publishing the results for the benefit of society.*”⁶⁴

309. The Blockchain Research Lab (BRL), “*employs economists, management scholars, natural scientists, computer scientists and new economy experts*” as per its website.

310. On February 3, 2021, BRL scientist Dr. Lennart Ante published a study on the effect of Musk’s tweets on cryptocurrency and Dogecoin in particular, to wit, **How Elon Musk’s Twitter**

⁶⁴<https://www.blockchainresearchlab.org/about/>.

Activity Moves Cryptocurrency Markets. The paper was revised this year on January 12, 2022.⁶⁵ (Exhibit “A”)

311. The BRL paper states that:

*On January 29, 2021, Elon Musk, at that time the richest person in the world (Klebnikov, 2021), unexpectedly changed the bio of his Twitter account to #bitcoin. The price of **Bitcoin** rose from about \$32,000 to over \$38,000 in a matter of hours, increasing the asset's market capitalization by \$111 billion.*⁶⁶ Ibid.

312. It concluded that the effect of Musk's tweets, “*are only significant for Dogecoin-related Tweets but not for Bitcoin.*” Ibid.

313. The study was conducted as follows:

For each tweet, we ascertain whether it refers specifically to Dogecoin (66%), Bitcoin (30%) and/or Ethereum (1.5%), or to cryptocurrencies in general (2.5%). We then identify and cluster successive tweets on the same topic (i.e. the cryptocurrency mentioned) in order to exclude any confounding effects in the event study. Whenever more than six hours elapsed between two subsequent tweets, this marks the beginning of a new cluster (event). This time interval ensures that the estimation periods for the quantitative analysis do not overlap (see below). With fourteen episodes of tightly-spaced tweets, we are left with a sample of 50 events. We exclude 7 tweets that mention cryptocurrency in general from the analysis, as they lack a comparable specific financial time series. Ibid.

314. Further, they “use a 5-hour period before the event ($t = -360$ to -60 minutes) as the estimation window— long enough to make the results robust (Armitage, 1995).”

315. And, “*the very minute Musk posts a Dogecoin-related tweet, the market reacts with an abnormal return of 2.16%, followed by another 2.16% in the next minute.*” Ibid.

316. Further, “*the significant return effects accrue exclusively to Dogecoin (5.11% over two minutes and 6.33% over one hour) but not to Bitcoin. Individual events regarding Dogecoin yield abnormal returns of up to 12.5% over 2 minutes and 26.5% over one hour.*” Ibid.

317. So that, “*we can conclude that the market reacts quickly and significantly to Musk's tweets,*

⁶⁵ Ante, Lennart, How Elon Musk's Twitter Activity Moves Cryptocurrency Markets (February 3, 2021, Revised January 12, 2022). Available at SSRN: <https://ssrn.com/abstract=3778844> or <http://dx.doi.org/10.2139/ssrn.3778844>

⁶⁶ Ibid.

but just as quickly reverts back into its normal state.” *Ibid.*

318. Finally, the authors state that with this study, “investors could develop an alternative investment strategy based on this information, regulators could analyze the need for market intervention and the influencers themselves can better judge the implications of their behavior on Twitter.”

Study 2: Journal of Theoretical and Applied Electronic Commerce - *Down with the #Doge father: Evidence of a Cryptocurrency Responding in Real Time to a Crypto-Tastemaker*

319. In this study⁶⁷, the author (Cary) *inter alia* concluded that:

*By performing sentiment analysis on relevant tweets during the time he was hosting SNL (in May of 2021), evidence is found that negative perceptions of Musk’s performance led to a **decline in the price of Dogecoin**, which dropped 23.4% during the time Musk was on air. This shows that cryptocurrencies are affected in real time by the behaviors of crypto-tastemakers. (Exhibit “B”)*

320. Further,

*On 1 April 2021, Elon Musk claimed via Twitter that “**SpaceX is going to put a literal Dogecoin on the literal moon**”. Shortly after making this **hyperbolized claim**, it was announced that Musk would be hosting the 8 May 2021 episode of Saturday Night Live (SNL). Musk confirmed this in a personal announcement on his Twitter account on 28 April 2021 in which he called himself the “Doge father.” All of these specific examples of Musk’s Twitter activity are part of a much larger corpus of crypto-tastemaking, dating back to January 2021 when Musk started giving Dogecoin attention on Twitter during the GameStop short squeeze [14]. **Musk also went on to call Dogecoin mining “fun” in order to increase the popularity of the cryptocurrency [14].** *Ibid.**

321. The study concluded *inter alia* that, “[the] results indicate that increases in the magnitude of negative public perception of Musk’s performance had a negative effect on the price of Dogecoin.” *Ibid.*

⁶⁷ Available at <https://www.mdpi.com/0718-1876/16/6/123/htm>.

Study 3: The Credibility Cryptocurrency Valuation: Statistical Learning Analysis for Influencer Tweets:

322. In this study⁶⁸, the authors introduced the phrase “**Musk Effect**”:

Tesla CEO Elon Musk has shown his love for Dogecoin on Twitter several times. ... it is difficult to explain [Dogecoin’s] abnormal price increase - other than the Musk effect. (Exhibit “C”)

323. The objectives of this study were, “*to statistically infer Elon musk’s influence on the Dogecoin market and, if it is, to find out whether Musk’s impact decreases over time or continues as he keeps posting the tweets based on the shepherd’s boy effect.*” Ibid.

324. The study concludes by stating, *inter alia*, that Dogecoin’s, “*price and return value apparently seem to be related to Elon Musk’s twit events*”. Ibid.

325. While the author of this study points to other potential contributing factors which may also affect Dogecoin’s pricing (as any other investment), this study is notable because it does not rule out Musk’s tweets as a cause. Ibid.

8. “DOGE ARMY”

326. Since Defendant Musk began tweeting about Dogecoin in 2019, he has effectively assembled the “Doge Army” which includes celebrities, influencers, and billionaire investors along with thousands of Tik Tok, Twitter, Facebook, and Instagram followers, owners, and supporters of Dogecoin to boast the price, trading volume, and market cap of Dogecoin.

327. The Doge Army is most prominently led by Defendant class representative Matt Wallace, a Dogecoin owner and crypto-youtuber with over 628,000 Twitter followers who consistently posts

⁶⁸ Available at <https://arxiv.org/abs/2112.08579>.

and tweets misrepresentations in support of Dogecoin.

328. Individuals and entities who are part of this Enterprise include but are not limited to, rapper Lil' Yachty, artist Kevin Jonas, Gene Simmons who has dubbed himself the "God of Dogecoin," billionaire entrepreneur Mark Cuban, celebrity chef Defendant Guy Fieri, and Saturday Night Live alumni David Spade.

329. On January 28, 2021, Lil Yachty tweeted "#dogecoin type of day" and on January 29, 2021, he tweeted "Goodmorning to #dogecoin owners only" to his five million followers.

330. On February 6, 2021, Kevin Jonas tweeted "All I'm saying... \$doge" to his five million followers.

331. On February 6, 2021, Gene Simmons tweeted "God of Dogecoin" with a picture of himself to his one million followers.

332. On April 13, 2021, celebrity chef Guy Fieri tweeted "Rollin' out to the MOON #Dogecoin."

333. On April 27, 2021, Mark Cuban tweeted to his eight million followers that, "(T)omorrow I'm on @TheEllenShow, talking about ... you guessed it #dogecoin!"

334. On May 6, 2021, David Spade tweeted to his 2.8 million followers: "I wonder if @elonmusk on #snl will be a 90 minute infomercial for Doge coin. (Buying it as we speak)"

335. These tweets by the Doge Army are retweeted on Twitter and are echoed in other social media platforms, e.g. TikTok, Instagram, Facebook, Reddit, etc.

336. In all, billions of people see these promotions and buy Dogecoin in every state and country around the world on the 50 cryptocurrency exchanges which feature this "meme" virtual coin.

337. The Doge Army includes a large percentage of the four million Dogecoin holders, who have promoted and advertised Dogecoin since April 2019.

338. There are approximately 2.3 million followers on the Dogecoin Reddit page.

339. Since the Doge Army are early adopters of Dogecoin, they all profited by marketing Dogecoin to the general public including Plaintiffs and the class.

**9. SCIENTER: DEFENDANTS ACTED KNOWINGLY AND WERE
AWARE THAT DOGECOIN LACKED INTRINSIC VALUE**

340. Despite Defendants artificially inflating Dogecoin and encouraging its purchase, at all times they were aware that Dogecoin's value depended *solely* on marketing, subject to the high volatility of the crypto-market generally.

341. Dogecoin co-founder Defendant Billy Markus, who has directly communicated *over one hundred times* with Musk on Twitter since 2021, in a tweet in May of **admitted that Dogecoin was a scam**, e.g. "99.99% greater fool theory":



342. Defendants are aware that Dogecoin lacks intrinsic value because it is not a government-backed currency or a stock.

343. In addition, defendants knew or should have known that Dogecoin cannot be reasonably used as currency, since its trading price exhibits high volatility and is subject investor sentiment

only, which Musk controls with memes and tweets.

344. Further, Dogecoin doesn't provide the benefits of a traditional stock because a holder does not receive shares in a bona fide company, and it doesn't pay interest or dividends.

345. Dogecoin is also a "coin" in name only, not a physical object, e.g. it is a "virtual" coin.

346. And defendants knew that Dogecoin is not backed by gold or other precious metals and neither does it generate cash flow or revenue besides the volatile capital gains – or losses.

347. Defendants at all times have also been aware that Dogecoin is not secured by a government or private entity and is rarely used as a payment system.

348. In fact, Tesla accepts Dogecoin as legal tender for only a few of its nearly 200 online products (in December 2021 it only applied to three products).

349. In addition, despite decentralization claims by Defendants, Dogecoin is not decentralized since most Dogecoins are traded through cryptocurrency exchanges, and miners and the Dogecoin developers also exhibit control.

350. Defendants have also been aware that the number of Dogecoins is unlimited and nearly 15 million new Dogecoins are mined every day (15 billion per year), thus posing a risk of inflation. \

10. DOGECOIN IS AN UNREGISTERED SECURITY

351. Under the *Howey* test established by the Supreme Court, a contract, transaction, or scheme involves an investment contract if it involves: (a) the investment of money, (b) in a common enterprise, (c) with the expectation of profits to come solely from the efforts of others.

352. The SEC has asserted that digital tokens may constitute, "securities and may not be lawfully sold without registration with the SEC or pursuant to an exemption from registration."⁶⁹

⁶⁹ See Investor Bulletin: Initial Coin Offerings, U.S. Securities and Exchange Commission (July 25, 2017),

353. Further, The SEC’s Strategic Hub for Innovation and Financial Technology (“FinHub”) also published the Framework for ‘Investment Contract’ Analysis of Digital Assets (“SEC Framework”), providing guidance for assessing whether a crypto-token offering is a security under federal law.⁷⁰

354. Dogecoin is a security, an investment contract, for the reasons set forth in this complaint, See **Count 1, §1.**

355. Specifically, Dogecoin began as “**the next big thing**,” Statement of Facts ¶124, was promptly listed on exchanges, was formally incorporated in the State of Colorado in June of 2014, has had a development fund since 2013, was marketed since it was formed as a for-profit endeavor as depicted by the comprehensive “to the moon” campaign, had its own initial coin offering using the Dogeparty concept, and it is exclusively promoted as a profitable endeavor. See **Count 1, §1.**

356. Further, plaintiffs who purchased Dogecoin invested in a common enterprise with the expectation of receiving profits from the efforts of Defendants.

357. Notwithstanding, to date, Dogecoin remains unregistered with the Securities and Exchange Commission.

358. Defendants have therefore engaged in the unlawful offer and sale of unregistered securities.

359. Dogecoin therefore qualifies as an unregistered security and subjects Defendants to liability under the Securities Act as pleaded in Counts I – VII.

https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_coinofferings; see also *In re Matter of Munchee, Inc.*, File No. 3-18304 (S.E.C. Dec. 11, 2017), <https://www.sec.gov/litigation/admin/2017/33-10445.pdf> (“[T]okens, coins or other digital assets issued on a blockchain may be securities under the federal securities laws, and, if they are securities, issuers and others who offer or sell them in the United States must register the offering and sale with the Commission or qualify for an exemption from registration.”).

⁷⁰ See <https://www.sec.gov/news/public-statement/statement-framework-investment-contract-analysis-digital-assets>

F. CLASS ACTION ALLEGATIONS

360. The class is initially defined as all individuals or entities who hold Dogecoin at a loss or who have lost money trading Dogecoin and all Dogecoin traders since June 16, 2016, who paid spread fees, miner fees, and exchange fees. Plaintiffs estimate the class size to be approximately two to three million people.

361. This action is properly maintainable as a class action.

362. The class is so numerous that joinder of all members is impracticable.

363. The number and identities of class members can be determined through crypto exchanges, the Dogecoin blockchain, and voluntary disclosure by class members.

364. The disposition of their claims in a class action will be of benefit to the parties and the court.

365. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted, and no unusual difficulties are likely to be encountered in the management of this action as a class action.

366. The likelihood of individual class members prosecuting separate claims is remote.

367. There is a well-defined community of interest in the questions of law and fact involved affecting members of the classes.

368. Among the questions of law and fact which are common to the classes, and which predominate over questions affecting any individual class member are, the following:

369. Whether Defendants violated Securities laws including 17 C.F.R. 240.10b-5.

370. Whether Defendants violated Civil RICO;

371. Whether Defendants have violated federal and state gambling laws;

372. Whether Defendants have engaged in common law fraud;

373. Whether Defendants' unlawful acts resulted in unjust enrichment;
374. Whether Plaintiffs and the classes are entitled to injunctive and equitable relief;
375. Whether Defendants' acts were willful entitling Plaintiffs and the classes to treble and/or punitive damages.
376. Plaintiffs are members of the class and are committed to prosecuting this action.
377. Plaintiffs' claims are typical of the claims of the other members of the class.
378. Plaintiffs do not have interests antagonistic to or in conflict with those they seek to represent. Plaintiffs are, therefore, adequate representatives of the proposed class.
379. The likelihood of individual class members prosecuting separate individual actions is remote due to the relatively small loss suffered by class members as compared to the burden and expense of prosecuting litigation of this nature and magnitude.
380. Absent a class action, Defendants are likely to avoid liability for their wrongdoing, and the class members are unlikely to obtain redress for the wrongs alleged herein.
381. Adjudication of this case on a class-wide basis is manageable by this Court.

COUNT I
VIOLATION OF SECTION 10b-5(a) OF THE SECURITIES ACT

382. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint as if fully set forth in this cause of action.
383. Since April 2019 through the date of filing this amended complaint Defendants individually and collectively, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, directly or indirectly, knowingly or severely recklessly employed devices, schemes and artifices to defraud in connection with the offer and sale of Dogecoin, an **investment contract** and security pursuant to 17 C.F.R. 240.10b.

384. Plaintiffs invested in a common enterprise, from which the investors were led to expect profits primarily from Defendants' entrepreneurial efforts.

385. Defendants made false statements to drive up share prices.

386. Defendants pumped the price of Dogecoin to make profits for themselves, their families, employees, and friends at the expense of Plaintiffs and the class.

387. Defendants failed to inform Plaintiffs and the class that Dogecoin would fail as soon as new people stopped buying Dogecoin at higher prices.

1. Dogecoin is an Investment Contract

388. In *Barron v. HELBIZ*, No. 2021 U.S. Dist. LEXIS 12352, 2021 WL 229609 (SDNY 2021) (rev'd on other grounds, e.g. the *Morrison* domesticity issue) this Court stated that the cryptocurrency at issue was an “**investment contract**” because, “*Defendants treated the token as an investment from its inception,*” and cited the token’s ICO and exchange listings as non-exhaustive factors for making this determination.

389. Dogecoin is similarly an “**investment contract,**” and therefore a **security**, for the following reasons:

- i. Both of its co-founders admitted that Dogecoin was started with the expectation it would become the “**Next Big Thing,**” **even admitting that they were inspired by Bitcoin’s meteoric rise in late 2013.** Statement of Facts ¶124.
- ii. The comprehensive and ubiquitous “**to the moon**” advertising campaign - which espouses stratospheric Dogecoin profitability – was started by the founders in 2013 and then exploited by Musk and SpaceX for further profit, (**Exhibits “E” “F” “G”**) since Musk wanted to help his employees, whom he deemed to be “*not that wealthy.*”
- iii. Dogecoin was listed in an exchange as early as February 2014. *Supra*, ¶157
- iv. In 2018 the **Dogecoin Developers**, a semi-formal association of computer scientists and “blockchain” hobbyists, admitted they contacted an exchange.

- v. In a Reddit post from 2017, the Dogecoin Developers further admitted that they sought to “assist” exchanges because it “helps out the community at large”.
- vi. The **Dogecoin Foundation, Inc.** was incorporated in June of 2014, after a thorough discussion with the public on social media network Reddit.
- vii. The **Bylaws** for the Dogecoin Foundation were drafted prior to June of 2014, the date of incorporation.
- viii. Dogecoin has had a “**development fund**” or “**devfund**” since early 2014 and has encouraged donations to same, currently valued at approximately **one million dollars and over 10 million dollars at the height of the Dogecoin bubble in May of 2021.**
- ix. Dogecoin is currently listed in more than 50 exchanges
- x. Its market cap has risen at times to over **\$95 Billion.**
- xi. In early to mid-2014, Dogecoin promoters and developers knowingly supported and directed a 30-day **Initial Coin Offering** by Dogeparty promoters, wherein Dogecoin was transferred to a “dead” inaccessible address or wallet by traders, and in return the Dogeparty promoters would issue the traders a new token called “**XDP**”, which is currently purportedly trading for value in exchanges. This process has been compared to a **stock buyback, supra.** The intention of Dogeparty developers and promoters – knowingly supported, encouraged and directed by Dogecoin developers – was to raise Dogecoin’s market cap and price, by **increasing demand** for Dogecoin tokens used to “purchase” XDP tokens, and simultaneously **decreasing the supply** of the Dogecoin sent to the “dead” wallet. **Effectively, this process encouraged the purchase of the Dogecoin used to purchase XDP, thereby increasing demand, and it also decreased the supply of Dogecoin sent to the “dead” wallet, both which resulted in a higher market cap and price for Dogecoin and the Dogecoin “devfund”, and a corresponding influx of new capital.**
- xii. *In S.E.C. v. Glenn W. Turner Enters., Inc.*, 474 F.2d 476 (9th Cir.), *cert. denied*, 414 U.S. 821, 94 S.Ct. 117, 38 L.Ed.2d 53 (1973), the ninth circuit declared that **investments in a pyramid scheme were “investment contracts”** and thus securities within the meaning of the federal securities laws.

390. Ergo, Dogecoin was started in a structured manner, with provisions for fund-raising and the expectation that it would be a multi-billion-dollar company (“the next big thing”), and it was then peddled as a “joke” or “meme” currency in order to avoid regulatory scrutiny for purported lack of “seriousness” or for-profit scienter.

391. That the Dogecoin foundation was started as a non-profit does not undermine the foregoing allegations that Dogecoin is an “investment contract”— but rather *enhances* same, since “non-profit” and “the next big thing” cannot be reconciled.

392. In fact, non-profit status was likely a facet of the overall scheme to keep this investment contract shielded from regulatory oversight.

2. Scierter

393. Since 2020 defendant Musk has tweeted, no less than three times, *including at least once to Dogecoin co-founder Defendant Billy Markus*, that whoever “**controls the memes, controls the Universe,**” having received nearly **a million “likes”** for these tweets:



394. Dogecoin is known as the fun “meme coin” throughout the internet, as it subsists and achieves value solely by way of comprehensive meme-based marketing campaigns, such as the ubiquitous to “**to the moon**” campaign started by Dogecoin founders and later adopted and enhanced by Defendant Musk.

395. As such, the tweets about “controlling” the memes, and the universe, constitute admissions of **intentional** scienter.

396. In addition to the foregoing, Defendant Musk at a Bloomberg interview in June of 2022 admitted he sought to “help” his own employees to profit from Dogecoin (since they are “*not that wealthy*”), and he has *repeatedly* stated he would “support” Dogecoin towards that goal, i.e. manipulate the market to recruit more buyers thereby increasing Dogecoin market cap and pricing.

397. The foregoing amounts to an admission of “**intentional**” scienter, in that Defendant Musk explicitly stated he **intended** to both manipulate the market, as well as to increase the Dogecoin profits of stakeholders.

398. Defendant Tesla’s scienter is evident in that it experienced a dramatic increase in its stock during the pandemic, catapulting its largest shareholder, Defendant Musk, to the top of the Billionaires list and increasing his wealth nearly ten-fold.

399. As such, Tesla has little to no incentive to “adopt” Dogecoin for legal tender, except to manipulate the market to please its largest shareholder, Defendant Musk, who also wanted to help his Tesla employees since “they are not that wealthy”.

400. Moreover, Tesla’s “adoption” of Dogecoin is *de minimis*, and insignificant, thus underscoring that its sole purpose is to manipulate the market on behalf of the “Dogefather” Musk.

401. Defendants TBC and SpaceX similarly, as successful companies, have little incentive to “adopt” Dogecoin except to help Defendant Musk’s employees since, “they are not that wealthy,” as Musk admitted at a June 2022 Bloomberg interview.

402. The scienter of the co-defendants is demonstrated by their purchasing, marketing and promotions of Dogecoin for the purpose of increasing the price, market cap and trading volume.

403. For the following reasons, Defendant Musk is aware of the nature of Dogecoin as an investment, and that it actually began as, “the next big thing.” He has therefore also acted recklessly.

404. Defendant Musk’s scienter is also evident for additional reasons, e.g. his relationships with other stakeholders.

405. First, although Mr. Musk follows only 116 people (yet he is followed by more than 100 million), among that small group he follows Dogecoin co-founder Defendant Billy Markus, the Dogecoin Developers, and Dogecoin’s official twitter account (**Exhibit “W”**), thus further corroborating his overall (intentional) scienter and knowledge of the genesis and nature of Dogecoin as an investment contract and/or that Dogecoin was started with the expectation of becoming “the next big thing,” lingo for a company with multi-billion dollar capitalization.

406. Second, Mr. Musk’s reputed right-hand man, Defendant Jared Birchall, sits on the advisory board of the Dogecoin Foundation, thus enhancing Mr. Musk’s comprehension of the business dealings of Dogecoin, thereby corroborating his scienter of having acted recklessly or intentionally.

407. Third, Mr. Musk is prominently listed in the Bio of Dogecoin’s official twitter page, to wit, www.Twitter.Com/Dogecoin, and he is therefore exposed to Dogecoin Twitter feed, which was started along with Dogecoin in December of 2013.



408. For the foregoing reasons, Defendants reasonably acted intentionally and/or recklessly.

3. 10b-5 Liability

409. Defendant Musk **manipulated the market** in violation of securities laws by knowingly or recklessly **tweeting his over *one hundred* Dogecoin-specific Tweets from 2019 to 2022, (Exhibit ‘U’), each of which were published/tweeted to approximately 100 million followers and potential investors with the sole intention to manipulate the market in order to “help” his employees and purported Dogecoin owners to profit, as he admitted at a Bloomberg interview in June of 2022, e.g., “[b]ecause I just heard a lot of people who are...not that wealthy... who, you know, have encouraged me to buy and support Dogecoin and *I’m responding to those people ... just people that work around the factory at SpaceX or Tesla...they’ve asked me to support Dogecoin.. So I’m doing so.... I said I support Dogecoin, and I’m doing that...*” (emphasis supplied).**

410. In addition, in an October 23, 2021, tweet, Defendant Musk further openly admitted that he was knowingly manipulating Dogecoin to help his employees profit:



411. More specifically, Defendant Musk **manipulated the market** in violation of securities

laws by knowingly or recklessly tweeting regularly to his followers, in his role as “Dogefather” and elected “CEO” of Dogecoin, that *inter alia* Dogecoin is the “people’s crypto” and that he would “support it.” These tweets served no other purpose but to recruit new Dogecoin buyers, and increase its market cap and price, in order to “help” his employees profit, as he admitted at a Bloomberg interview in June of 2022 and in an October 23, 2021, tweet.

412. Defendant Elon Musk and Dogecoin co-founder Defendant Billy Markus further manipulated the market and/or made material misrepresentations by repeatedly calling Dogecoin a “joke,” when in reality co-founder Markus admitted in a *Reddit* post of 2021 that Dogecoin was started with the expectation that it would be the “next big thing.”

413. Defendant Musk, given his intellectual acumen and in his title as “CEO” and/or “Dogefather,” was reasonably aware that Dogecoin was started as, **“the next big thing,”** particularly since co-founder Jackson Palmer corroborated that it was in fact started with that expectation (as the “next big thing”).

414. Defendant Musk therefore acted recklessly and/or intentionally in repeatedly calling Dogecoin a “joke” in Tweets and on national television, in a clear effort to recruit more buyers and mislead regulators thereby manipulating the market with misrepresentations or hyperbole, *while avoiding regulatory scrutiny*.

415. Defendant co-founder Billy Markus is also aware that Dogecoin had bylaws, and was listed on exchanges since at least early 2014, yet he too has called the investment a “joke” in an effort to recruit more buyers, and with the aim of misleading regulators and manipulating the market to make Dogecoin “the next big thing,” as he admitted was his intention.

416. Mr. Musk, given his intellectual acumen and in his title as “CEO” and/or “Dogefather” was likewise reasonably aware of Dogecoin’s bylaws, as also depicted by his “right hand man” Jared

Birchall's role as advisor to the Dogecoin Foundation, and acted recklessly and/or intentionally in repeatedly calling Dogecoin a "joke" in Tweets and on National Television, in an effort to recruit more buyers and mislead regulators thereby manipulating the market with misrepresentations.

417. Defendant Musk further acted recklessly or intentionally and manipulated the market and/or made material misrepresentations, by repeatedly tweeting myriad misleading claims regarding Dogecoin's potential for growth through, inter alia, the comprehensive "to the moon" or "to the moooon" meme-based advertising campaign, (**Exhibits "E" "F" "G"**), which suggested that Dogecoin's price would rise *ad infinitum*. Defendant Musk engaged in these acts in an effort to recruit more buyers thereby manipulating the market with misrepresentations.

418. Defendant Musk and his company *Tesla* further acted knowingly and/or recklessly, by formally announcing in tweets and the media that Tesla would accept Dogecoin (the *only* cryptocurrency they accept) as payment for online Tesla store goods - when in reality it is nearly impossible to purchase most if not all Tesla online products using Dogecoin. Mr. Musk and *Tesla* engaged in these acts to recruit more buyers thereby manipulating the market with misrepresentations.

419. Defendants Musk and TBC further acted knowingly and/or recklessly, by publicly announcing in response to this lawsuit that TBC would "eventually" accept Dogecoin without stating *when*, a misleading statement made by TBC and "supported" by Musk in a Tweet, for the sole purpose of manipulating the Dogecoin market. Mr. Musk and TBC. engaged in these acts in an effort to recruit more Dogecoin buyers thereby manipulating the market with misleading statements or shenanigans.

420. Defendants Musk and SpaceX acted knowingly and/or recklessly, by misleadingly publicly announcing that a DOGE-1 satellite would launch to the moon early this year (*it has not*

yet launched), and by misleadingly stating that Dogecoin would be *literally* “sent” to the moon - when in reality cryptocurrency generally resides in a distributed databases spread across multiple computers (nodes) scattered all over the world, and cannot be “sent” anywhere except another wallet which also resides on the distributed ledger, called the blockchain. Defendants Musk and *SpaceX* engaged in these acts to recruit more buyers thereby manipulating the market with misleading statements or shenanigans.

421. Defendants Dogeparty Developers acted knowingly and/or recklessly by helping Dogecoin raise capital through an informal Initial Coin Offering (ICO) in mid-2014, which used the cryptocurrency novelty of “proof of burning” of Dogecoins to disguise the true nature of the offering and issuance of XDP tokens – to raise the price of Dogecoin thus resulting in new capital for Dogecoin stakeholders.

422. Dogecoin Developers class representative Ross Nicoll, supported, encouraged, and or directed the Dogeparty ICO, and also sought to conceal its profit motives, e.g. to raise capital, by falsely contending that the XDP tokens, or the “custom” tokens XDP owners could “create” through the Dogeparty platform, would have value for those who burned Dogecoin in the 2014, or 2021, “Dogeparty Event” or ICO.

423. **The foregoing constitutes, “a device, scheme, or artifice to defraud”** since defendants are collectively employing the “to the moon” scheme, as well as the scheme of pretending to accept Dogecoin as legal tender, and the scheme of calling Dogecoin “a joke” coin, to avoid regulatory oversight.

424. **In addition, the frequent reference, in memes and elsewhere, of Dogecoin as a gold-plated coin, when in reality Dogecoin doesn’t exist but is only *inferred* from transactions on**

the ledger, constitutes a further scheme to defraud, as does Musk’s claim that a virtual non-existent coin can be “literally” sent to the moon.

4. Fraud on the Market: Dogecoin Market is Efficient

425. The cryptocurrency market generally is efficient, since the entirety of cryptocurrency sales and transactions takes place online, via the internet, which is massively interconnected, and through which information spreads instantaneously, often becoming “viral” within seconds.

426. This contrasts with traditional securities, which rely on less efficient media, e.g. newspapers, radio, and television, and which can exist separately from said media.

427. The Dogecoin market is therefore efficient since it relies on direct and frequent Reddit and Twitter posts by Defendants and others, and also since Dogecoin is listed in over 50 online exchanges, thus assuring that information is properly disseminated and consumed by potential buyers *within minutes* or seconds using the vast power of social media and search engines online, along with the well-known ranking system of social media, where the more relevant information can become “viral”, e.g. digitally ubiquitous, within seconds.

428. In fact, the author of the 2022 scholarly publication, “*How Elon Musk’s Twitter Activity Moves Cryptocurrency Markets*,” on January 12, 2022, concluded in his independent study that “*for both returns and trading volume (of Dogecoin), the sudden increase in response to [Musk’s] tweet takes only about two to three minutes*.” (Exhibit “A”). (emphasis supplied):

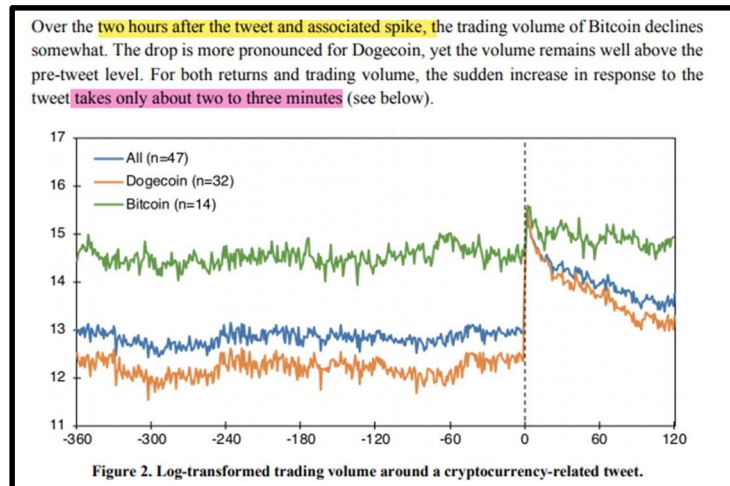


Figure: The coral line depicts Dogecoin prices while x-coordinate “0” depicts the moment Musk tweets, with a sudden associated spike in Dogecoin trading volume within two to three minutes of the tweet.

429. Thus, given that Dogecoin, and cryptocurrency generally, is completely digital *and* internet-based, material information affects prices within seconds, thus making cryptocurrency trading **the most efficient market possible**.

430. The completely online internet-based nature of *Dogecoin* thus provides some assurance that the price of Dogecoin as reflected in exchanges, *nearly instantaneously* depicts all known data about Dogecoin.

431. As such, Plaintiffs and the class are entitled to a presumption of reliance and application of the fraud on the market theory.

432. By reason of the foregoing, Defendants violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(a) [17 CFR § 240.10b-5(a)] thereunder.

COUNT II **VIOLATIONS OF SECTION 10b-5(b) OF THE SECURITIES ACT**

433. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, and of

COUNT I, as if fully set forth herein.

434. Defendants in engaging in such conduct made **untrue statements of a material fact** and omitted to state material facts.

435. Defendants' untrue statements include, but are not limited to, classifying Dogecoin as "currency" or "money" - when in reality it is an investment contract, asserting that Dogecoin started as a **joke**, asserting that Dogecoin would go "to the moon" or "to the moooooon" both physically as well as metaphorically, claiming that Tesla would accept Dogecoin for payment on its online store, claiming that BC would "eventually" also adopt Dogecoin, and falsely stating on **Dogecoin's** website that there is no "middle-man" for Dogecoin transactions.

436. Defendants' omissions include failing to inform prospective buyers that Dogecoin cannot increase in price indefinitely; that it has no inherent value; and that it is nearly impossible to use for payment.

437. Defendants also failed to warn Plaintiffs of the risks of trading Dogecoin and intentionally concealed relevant information.

438. Defendants were aware of these omissions, Plaintiffs would not have purchased Dogecoin if fully informed, and the failure to warn Plaintiffs was the proximate cause of their loss trading Dogecoin.

439. By reason of the foregoing, Defendants violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(b) [17 CFR § 240.10b-5(b)] thereunder.

COUNT III
VIOLATIONS OF SECTION 10b-5(c) OF THE SECURITIES ACT

440. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, including Counts I – II, as if fully set forth herein.

441. Defendants engaged in acts, practices, and a course of business which operated and operates as a fraud or deceit upon Plaintiffs and the class.

442. Defendants committed a fraud on the market participants by engaging in the previously plead conduct and by falsely advertising Dogecoin as the current and future currency of the world, by falsely stating that it “is money,” by claiming that Tesla accepts Dogecoin for payment when they only do so for a tiny percentage of products, and by recklessly artificially inflating Dogecoin’s price by 36,000% in two years, although Defendant Musk was aware the Dogecoin bubble would eventually collapse.

443. Defendants defrauded Plaintiffs, made false statements, omitted relevant information, and otherwise conducted business operations that deceived Plaintiffs in the process of conducting transactions involving the Dogecoin investment contract.

444. By reason of the foregoing, Defendants violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(c) [17 CFR § 240.10b-5(c)] thereunder.

COUNT IV
VIOLATIONS OF 17(a)(1) OF THE SECURITIES ACT

445. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, including Counts I – III, as if fully set forth in this cause of action.

446. Defendants employed a device, scheme, or artifice to defraud Plaintiffs and the class.

447. Defendant’s conduct, the “Dogecoin Pyramid Scheme,” defrauded Plaintiffs and the class out of billions of dollars, including trading losses, exchange fees, miner’s fees, and spread fees.

448. By reason of the foregoing, Defendants violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT V
VIOLATIONS OF 17(a)(2) OF THE SECURITIES ACT

449. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, including Counts I – IV, as if fully set forth in this cause of action.

450. Defendants obtained money by means of untrue statements of a material fact or any omission to state a material fact in connection with the Dogecoin Pyramid Scheme.

451. Plaintiffs and the class lost billions of dollars, including trading losses, exchange fees, miner's fees, and spread fees as a proximate cause of Defendants untrue statements and omissions.

452. If Defendants had provided the truth in their tweets, promotions, and on Dogecoin.com and had not omitted material facts, Plaintiffs and the class would not have purchased and lost billions of dollars trading Dogecoin.

453. By reason of the foregoing, Defendants violated Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT VI
VIOLATIONS OF 17(a)(3) OF THE SECURITIES ACT

454. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, including Counts I – V, as if fully set forth in this cause of action.

455. Defendants engaged in transactions, practices, or a course of business which operates or would operate as a fraud or deceit upon the Plaintiffs, regarding the Dogecoin Pyramid Scheme.

456. By reason of the foregoing, Defendants violated Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT VII
UNREGISTERED OFFER AND SALE OF SECURITIES IN
VIOLATION OF SECTIONS 5 AND 12(a)(1) OF THE SECURITIES ACT

457. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint, including Counts I – VI, as if fully set forth in this cause of action.

458. Defendants, and each of them, made use of means or instruments of transportation or communication in interstate commerce or of the mails, to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or for delivery after sale.

459. Dogecoin, and the Dogeparty XDP token, are securities within the meaning of Section 2(a)(1) of the Securities Act, 15 U.S.C. § 77b(a)(1).

460. Dogecoin and Dogeparty XDP securities were offered for sale by Defendants in a 2014 initial offering, and then again in a second 2021 offering, both offerings having as a goal the sale of XDP tokens using Dogecoin, as well as the increased sale of Dogecoin securities for the purpose of buying XDP tokens, which can only be purchased with Dogecoin.

461. Defendants Dogecoin Foundation, Dogecoin Developers, Dogeparty Developers, along with co-founders Billy Markus and Jackson Palmer, and Core Dogecoin developer Ross Nicholl, encouraged the purchase of Dogecoin and/or XDP tokens in 2014, by *inter alia* hosting or supporting or encouraging a 30-day “Dogeparty” event/offering of XDP tokens, and by listing or encouraging the listing of Dogecoin and/or XDP tokens in cryptocurrency exchanges since early 2014.

462. Defendants Dogecoin Foundation, Dogecoin Developers, and Dogeparty Developers further encouraged the purchase of Dogecoin and/or XDP tokens in 2021, by *inter alia* having a 60-day “Dogeparty” event/offering of XDP tokens in October of 2021, and by listing or

encouraging the listing of Dogecoin and/or XDP tokens in cryptocurrency exchanges, as well as by developing a “community fund” hosted by Dogeparty developers, for the benefit of the *entire* Dogecoin ecosystem, which specifically provides a budget for promoting the XDP tokens through exchanges.

463. **As the purchase of XDP tokens can only be made with Dogecoin tokens, both Dogeparty offerings (of 2014/2021) in reality had as its purpose the sale of Dogecoin tokens, thus constituting a de facto offering of Dogecoin securities.**

464. Further, as to the October 2021 second offering, Defendant Musk was a “control person” under Section 15 of the Securities Act by virtue of his offices, stock ownership, agency, agreements or understandings, and/or his specific acts. Defendant Musk therefore had the power and influence and exercised the same to cause the indirect offer Dogecoin securities as described herein.

465. No registration statements have been filed with the SEC or have been in effect with respect to any of the offerings alleged herein.

466. By reason of the foregoing, each of the Defendants have violated Sections 5(a), 5(c), and 12(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c), and 77l(a).

467. As a direct and proximate result of Defendants’ unregistered sale of securities Plaintiffs have suffered damages in connection with their respective purchases of Dogecoin and/or XDP securities.

COUNT VIII
CIVIL RICO

468. Plaintiffs repeat and reiterate all previous paragraphs of this amended complaint as if fully set forth in this cause of action.

469. Defendant's conduct is violative of the Racketeer Influenced Corrupt Organizations Act, 18 U.S.C. §§ 1961–1968 and consists of the Predicate Acts of Mail and Wire Fraud, 18 U.S.C. §§ 1341 and 1343, as well as Gambling, 18 U.S.C. § 1961(1)(A).

THE ENTERPRISE

470. Defendant Elon Musk, with over 100 million followers on Twitter, only follows just over **one hundred** people, which is considered a privilege.

471. Among those few people Musk “follows” on powerful platform Twitter are his mom, the mother of his children, **SpaceX, Tesla, TBC, the Dogecoin Developers, Dogecoin’s Official Twitter Account, and Billy Markus a.k.a. “Shibetoshi Nakamoto,”** co-founder of Dogecoin, with whom he communicates daily (**Exhibit “W”**).

472. When Musk “follows” someone on Twitter, he likely reads their public tweets, often responding to these public communications in the “comments” section, as he frequently does with Dogecoin co-founder Billy Markus. (**Exhibit “D”**).

473. Since May of 2021, Defendant Musk has communicated on Twitter with **Billy Markus**, the founder of Dogecoin, hundreds of times.

474. Further, as the anointed “Dogefather,” Elon Musk at the top of the pyramid, and his cohorts SpaceX, Tesla, TBC, Dogecoin, Dogecoin Developers, Billy Markus, *supra*, are his *de facto* associates.

475. In addition, Musk’s reputed right hand-man Jared Birchall, who manages Musk’s wealth, is an advisor to the Board of **Dogecoin Foundation**.

476. Dogecoin Core Developer Defendant **Ross Nicholl**, who frequently communicates with the Dogecoin Core Developers on Twitter, is also an advisor to the Dogecoin Foundation Board.

477. In addition, in a tweet regarding Dogecoin, Musk admitted he was working with Dogecoin Developers to address Dogecoin's speed and carbon footprint.

478. Defendant Musk is also the CEO of SpaceX, Tesla, and TBC, all of which misleadingly "adopted" Dogecoin as legal tender solely to manipulate the market, and/or (in the case of SpaceX) misleadingly said they would "send" Dogecoin to the moon, which is impossible.

479. In addition, Musk regularly tweets and admits that he is using SpaceX, Tesla, and TBC, to manipulate the market on behalf of his employees because, "*they are not that wealthy.*"

PREDICATE ACT 1 WIRE FRAUD

480. Defendants have used and continue to use interstate and international wires and satellites, including the internet, Reddit, Twitter, Time Magazine, The Ellen Show, and Saturday Night Live, to defraud Plaintiffs and the class of billions of dollars through the Dogecoin Pyramid Scheme.

481. Defendants' purchasing, marketing, advertising, promoting, and manipulating Dogecoin on the internet, inclusive of exchanges, in the United States and internationally since December 2013 constitutes an illegal wire fraud enterprise.

482. The Dogecoin Pyramid Scheme was created, promoted, and advertised by Defendants together with their servants, agents, employees, and volunteers.

483. Defendants' enterprise published millions of Dogecoin related communications to billions of people, including tweets, memes, videos and a variety of other methods to boast the price, market cap and trading volume.

484. Defendants falsely and deceptively claim that Dogecoin is a legitimate investment when its purported value depends solely on its marketing efforts, and nothing more.

485. Defendants have encouraged Plaintiffs and the class to buy and sell Dogecoin.

486. Defendants' tweets are repeated or "retweeted" millions of times by Dogecoin holders, as well as on social media and the general media.

487. Defendants and their servants, agents, and employees have deceived Plaintiffs and the class into believing that Dogecoin is a valuable asset worth purchasing, holding and trading.

488. Plaintiffs and the class of Dogecoin holders would not have purchased Dogecoin if not for Defendants' fraudulent claims regarding the perpetual rising price of Dogecoin.

489. Plaintiffs and the class of Dogecoin holders would not have purchased Dogecoin if Defendants had provided all the facts regarding Dogecoin.

490. Millions of people presently hold Dogecoin with the false belief that Defendants will make the price skyrocket again.

491. Defendants have profited billions of dollars from the Dogecoin Pyramid Scheme.

492. Since Defendants inflated the Dogecoin market cap to \$95+ billion from \$250 million, and approximately \$9 billion at the time this amended complaint was filed, Plaintiff and the class demands \$86 billion in compensatory damages and \$172 billion in treble damages.

**PREDICATE ACT 2
CONSPIRACY TO COMMIT WIRE FRAUD**

493. Plaintiffs repeat and reiterate all prior paragraphs of this amended complaint as if fully set forth in this cause of action.

494. Defendants have jointly participated in conspiracy to enact a scheme meant to defraud Plaintiffs and the class.

495. By reason of the foregoing, Defendants are all jointly and severally liable for the damages sustained by Plaintiffs and the class.

**PREDICATE ACT 3
GAMBLING**

496. Plaintiffs repeat and reiterate all prior paragraphs of this amended complaint as if fully set forth in this cause of action.

497. Gambling is accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

498. On April 12, 2022, Dogecoin co-creator Defendant Billy Markus tweeted that, “cryptocurrency buying and selling is not investing. **It is gambling.**”

499. In January 2022, the Guardian published an article stating that, “‘Trading is gambling, no doubt about it’ – how cryptocurrency dealing fuels addiction. Fears rise over how unregulated trading and promotion of crypto assets are creating a new generation of addicts.”

500. In July 2021, Chris Larse, President of Ripple stated that, “There is not any distinction between investing in Dogecoin and touring to Las Vegas.”

501. In July 2021, MicroStrategy CEO Michael Saylor drew parallels between buying Dogecoin and playing roulette in Las Vegas saying that, “I’m gonna buy Dogecoin before Elon Musk goes on Saturday Night Live (is like) I’m gonna go to Vegas and I’m going to bet on black.”

502. In 2021, Mad Money’s TV host Jim Cramer said, “I think dogecoin (buying) ... is actually gambling, not investing.”

503. In 2021, Shark Tank star Kevin O’Leary said, “When you speculate on something like Dogecoin, that’s no different than going to Las Vegas and putting your money on red or black.”

504. Defendants have violated and continue to violate Title 18, U.S.C., Sec. 1955, (federal crime or offense for anyone to conduct an ‘illegal gambling business.’) the Federal Wire Act of 1961 and the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).

505. While there is a special exemption for stocks, **unless this Court finds that Dogecoin is an “investment contract,”** it is not exempt.

506. Defendants have also violated the New York State Constitution which prohibits gambling with limited exceptions as well as New York Penal Law Section 225.10 (Promoting gambling in the first degree).

507. Plaintiffs and the class are unknowingly gamblers who buy and sell Dogecoin as they would bet in a casino or a sports betting website.

508. Gambling is only allowed in the State of New York (and the other 49 states) under special conditions and circumstances, with proper licensing in those states that allow it at all.

509. Since the “trading” of Defendants’ Dogecoin cryptocurrency constitutes a gambling enterprise, each Defendant must register with every state in which they are operating under their gambling laws and pay taxes to those states and the federal government as required by law.

510. Since Plaintiffs and the class were not advised that the trading of Dogecoin was nothing more than a gambling enterprise, Plaintiffs and the class demand the return of all wagers lost trading Dogecoin.

COUNT IX
COMMON LAW FRAUD

511. Plaintiffs repeat and reiterate all prior paragraphs of this amended complaint as if fully set forth in this cause of action.

512. Defendants are engaged in a fraudulent **pyramid scheme** which constitutes common law fraud.

513. Defendants are aware that Dogecoin has no value yet promoted Dogecoin to profit from its trading.

514. Defendant Musk used his pedestal as world's richest man to operate and manipulate the Dogecoin Pyramid Scheme for profit, exposure and amusement with the assistance of all co-Defendants.

515. Rather than developing Dogecoin in 2019, if Defendant Musk had announced the truth about Dogecoin and all cryptocurrencies, namely that they are all pyramid schemes, the market cap of cryptocurrencies would not have climbed to \$3 trillion, with Dogecoin market cap of \$95+ billion.

516. Even after this lawsuit was filed, when Defendant Musk had an opportunity to be forthright about this scheme, he instead doubled down on Dogecoin and said that he would continue to "support" it fully knowing that it has no value, causing co-Defendants to continue supporting Dogecoin.

517. As a result of this fraudulent enterprise, Plaintiffs and the class have lost approximately \$86 billion in market cap, trading costs, miner's fees, and spread fees.

518. Wherefore, Plaintiffs and the classes demand compensatory damages in the amount of \$86 billion plus \$172 billion in punitive damages, to punish the Defendants and to deter such conduct in the future.

COUNT X
UNJUST ENRICHMENT

519. Plaintiffs repeat and reiterate all prior paragraphs of this amended complaint as if fully set forth in this cause of action.

520. As a result of Defendants' unethical, tortious and criminal conduct, Plaintiffs and the class invested billions of dollars in the Dogecoin pyramid scheme.

521. Defendants were unjustly enriched by approximately \$86 billion as result of their

securities violations, wire fraud, gambling enterprise, and other unlawful conduct.

522. Defendants were enriched at the expense of Plaintiffs and the class.

523. It is against equity and good conscience to permit Defendants to retain \$86 billion in profits they have obtained at the expense of Plaintiffs and the class.

G. DAMAGES/LOSS CAUSATION

524. 10b-5 loss causation is established by the facts themselves, e.g. immediately after Defendant Musk's SNL appearance the price of Dogecoin dropped significantly. Loss Causation is also *demonstratively* established by at least two (and potentially more) scholarly studies, How Elon Musk's Twitter Activity Moves Cryptocurrency Markets, *Blockchain Research Lab* (Ante, 2022), and Down with the #Dogefather: Evidence of a Cryptocurrency Responding in Real Time to a Crypto-Tastemaker, *Journal of Theoretical and Applied Electronic Commerce*, (Cary, 2022). **(Exhibits "A" "B" "C")**.

525. One study found inter alia that, "[Musk] later called himself the "Dogefather" as he announced that he would be hosting Saturday Night Live (SNL) on 8 May 2021. By performing sentiment analysis on relevant tweets during the time he was hosting SNL, evidence is found that negative perceptions of Musk's performance led to a decline in the price of Dogecoin, which dropped 23.4% during the time Musk was on air." See Down with the #Dogefather: Evidence of a Cryptocurrency Responding in Real Time to a Crypto-Tastemaker, *Journal of Theoretical and Applied Electronic Commerce*, (Cary, 2022). **(Exhibit "B")**⁷¹

526. Dogecoin continued this decline and lost over 90% through June of 2022, with the price still hovering around six cents per coin as of the filing of this amended complaint.

⁷¹ Also available at <https://www.mdpi.com/0718-1876/16/6/123/htm>.

527. Plaintiffs and the class would not have purchased Dogecoin but for Defendant Musk's tweets and other promotions of the Dogecoin Pyramid Scheme.

H. DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury on all claims so triable.

I. PRAYER FOR RELIEF

Plaintiffs and the class pray for the following relief:

- I. An order certifying this case as a class action;
- II. An order enjoining Defendants from advertising, marketing, and promoting Dogecoin;
- III. An order declaring that Dogecoin is an "investment contract" subject to regulatory oversight by the Securities Exchange Commission.
- IV. An order declaring that the trading of Dogecoin constitute gambling within the meaning of New York law and federal law;
- V. An order awarding Plaintiffs and the class monetary damages in the amount of \$86 billion for Dogecoin market cap loss and hidden trading fees, treble damages in the amount of \$172 billion, statutory damages as permitted by law, together with attorneys' fees and the costs of this action.

Respectfully Submitted,

September 6, 2022

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ATTORNEYS FOR PLAINTIFFS
AND THE CLASS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 6th day of September 2022, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system giving notice to all parties in this action.

s/Evan Spencer
Evan Spencer